I have got the minutes book and on going through that I find that meetings were held on the following dates. On 5th February 1938 when Mr. Mills was in charge. Then on 26th March 1938 when Mr. Karunakaran Nayar was in charge when Mr. Mills was on leave. Third was on 20th April 1938. The next meeting was on 16th May 1938, when Mr. Karunakaran Nayar was in charge. The fifth was on 1st January 1939 when again Mr. Karunakaran Nayar was in charge. The next was on 22nd September 1939 when also Mr. Karunakaran Nayar was in charge. Mr. Mills returned and there was a meeting on 23rd March 1940. Again two more meetings were held, while Mr. Mills was in charge, on 19th May 1940 and 16th November 1940. Then notice of two meetings were issued by the Principal. Meetings were to be held in Meenam 1116 and 1117. In Meenam 1116 notice of meeting was issued. No member was present. It will be in March 1941. The next one was in Meenam 1117 that was also about March 1942. In the case of both these meetings notices were issued but no member attended except the member from the staff. So neither of these meetings could be held and the business intended to be discussed at these two meetings had to be gone through by circulation.

Mr. A. B. Salem *(Mattancheri):* Is there any travelling allowance for attending these meetings?

Rao Sahib I. N. Menon *(Director of Public Instruction):* Yes.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* From the statements given will the Hon'ble President allow us to put questions.

Mr. President: I regret I cannot allow it.

THE COCHIN VERUMPATTAMDARS BILL—*(cont.)*

Mr. P. Kumaran Ezhuthassan *(Vadadkkancheri):* Mr. President, Sir, I move that a proviso as follows be added to sub-clause *(d)*—Provided that varam and pankupattam arrangements created after 1st Kumbham 1114 of holdings which were verumpattam tenures before the said date shall be considered as verumpattam tenures.

Explanation.—"Varam and pankupattam tenures granted by Receivers appointed by Courts of Law shall not be affected by this proviso." The object of tabling this amendment is to bring certain classes of tenure holders within the ambit of verumpattamdars who alone are to enjoy the benefits of this Act, namely fixity of tenure or permanancy of occupancy. The sub-clause in question, Sir, defines a verumpattamdar. The earlier portion of sub-clause lays down who a verumpattamdar is. It goes on to say that a tharikuthukaran of the Chittur Taluk is included in that definition. Towards the close of the definition we have the category of tenants who are not verumpattamdars. In that category of exclusions that will not be given the benefits of this all important Act comes two kinds of tenants, varam tenants and pankupattam tenants. So in other words, varam tenants and pankupattam tenants are not to enjoy the advantages of this proposed legislation. Even an ultra-protagonist of the tenant class will not say that varapattam tenants and pankupattam tenants should be given fixity of tenure, because in the very nature of such tenures they are evictable. Nobody can complain. But the amendment seeks to serve certain class of varapattam and pankupattam tenants. As a consequence, Sir, of the solemn statement which was referred to yesterday made by the then Hon'ble Diwan President, two things have emerged. Quite a large number of tenants who otherwise would not have been evicted, as a matter of fact have been evicted. Another consequence that followed from that statement is that quite a large number of verumpattamdars who would under this Act enjoy the benefits of it have been changed into persons who cannot enjoy the benefits of the Act. The nature of their tenures have been changed. One method of change was to convert a verumpattamdar into a varam tenant or a pankupattam tenant. Quite a large number of such changes has been made since the 1st of Kumbham 1114. That possibility and that apprehension entertained by a large section of the tenant population is referred to in that statement, which Sir, is worth repeating. "Talking about a measure of that kind, I have heard apprehensions expressed in certain quarters that in anticipation of such a measure some landlords are also trying to evict verumpattam tenants without proper cause and *some are trying to change the character of the tenures by some means or other.*" One resort that was taken to by these kind-hearted jenmies was to change the nature of the tenure, from verumpattam to varam tenures and pankupattam tenures the implication of which the poor and

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illiterate tenants were not able to understand. So, the position reduces itself to this. A verumpattamdar prior to the 1st day of Kumbham 1114 has been converted into a pankupattam tenant or a varam tenant and the sub-clause as it stands excludes these two kinds of tenants from the class of verumpattamdars who alone get the benefit of this Act. There are various kinds of pankupattam tenures and various kinds of varam tenants. One kind of pankupattam tenancy which is mostly prevailing is that the owner of the land will advance the necessary seed as well as the cost of cultivation and the tenant is to cultivate the land and the harvest is to be taken to the house, not after it is converted into paddy but the whole harvest is to be taken to the house of the landlord and then it has to be converted into paddy. From it, the seed grain as well as the cost of cultivation advanced by him is first to be taken. Then a proper pattam fixed according to the sweet will of the landlord will be deducted from the balance yield and then what remains, whatever it is, will be again divided between the landlord and the tenant in a proportion which is most suitable to the landlord. That is one nature of pankupattam. Varam tenancy also partakes of the incidents mentioned just now. So, from the very nature of that tenancy such a tenant is evictable, and he is at the mercy of the landlord. But nobody would complain against the eviction of such tenants, because they have accepted such tenancy with full knowledge of the implications of that tenancy. That is, in other words, they have entered into this tenure by mutual agreement. I have no quarrel with the eviction of such tenants. But I seriously take exception to the eviction of such tenants who have been converted into such tenants from their enviable position prior to the 1st day of Kumbham 1114 and reduced to this position to-day. This change, as I submitted before, was brought about by the statement which I referred to already. It is therefore sheer justice that the old verumpattamdar should be allowed to remain as a verumpattamdar, although by the sweet words of the jenmies and by other methods they have been converted from a verumpattamdar's position to the position of a pankupattam tenant or a varam tenant. The object of tabling this motion is just to exclude this particular class from the ordinary verumpattam and pankupattam tenant.

Now, the arguments in support of that amendment are again the implications of the statement. What was stated was that not being satisfied with a few of the ameliorative measures introduced by the then Diwan, namely the introduction of the Land Mortgage Bank, the constitution of the Debt Conciliation Board culminating in the passing of the well-known Agriculturists' Relief Act in Karkadagam 1114, not being satisfied by doing these very good things by the side of the tenants the Diwan declared that there are more things in store for the tenants to enjoy—this was the statement made in Karkadagam 1114 and in that statement it was stated that in the next session—the first meeting of the legislative session in Vrischigam, a Bill giving permanency of occupancy will be introduced. I am glad to note that the Diwan was pleased to keep his word and as a matter of fact a Bill was introduced in the Vrischigam session of 1115. The select committee that was appointed reported in record time and its report was published on the 25th Kumbham 1115; and the supplementary agenda that was circulated amongst Hon'ble Members contained a motion for the introduction and by waiving the Standing Order its consideration, naturally leading on to its 3rd reading and the final reading the day after next. That hope was sent out to the people of the State through this supplementary agenda, but unfortunately the final agenda for the meeting of Meenam 1115, *i.e.*, a month after the publication of the Select Committee Report, did not contain that motion. On questions being put as to why that is not in the supplementary agenda, the then Hon'ble Secretary told the House something beyond our comprehension. It was stated in this House that the final agenda did not contain this motion for introduction and consideration, for the simple reason, as stated by him, that there were various amendments tabled by the various sections of the House—I may inform the House that there were 3 parties, the State Congress Party, the Ministerialist Party, the Cochin Congress Party and the Progressive Party and some unattached members—and that it was not possible for them to consider all the amendments—a statement which knowing as I do the members that sat on the Treasury Benches at that time, I cannot certainly believe. Reasons real were others. I may tell you, Sir, eminent persons possessed of keen intellect were there; and for them to say that the amendments tabled by the various sections of the House could not be gone into between the date of their receipt and the date arranged for the 1st sitting is something which nobody can believe. But, Sir, we shall not probe into the real reasons. That statement was immediately followed by the adjournment motion which I referred to yesterday praying for a proclamation staying suit till the Government finds it convenient to get through all the stages of the Bill which they promised to bring and actually brought but hesitated to continue. Apprehensions were entertained by a good section of the House that as a result of the Government not bringing forward this motion the

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jenmi who was already indulging in eviction would carry on that activity of his with greater vigour resulting in the ruin of many more tenants. Prompted by that feeling the then leader of the opposition the present Hon'ble Minister tabled an adjournment motion and it must be said to the credit of the then President, Sir, that although the adjournment motion did not satisfy fully the condition allowing acceptance of adjournment motions he was pleased, Sir, to allow the discussion on the feelings of the House being ascertained, more than 20 members—non-officials—standing up in their seats in the teeth of the opposition that was so ably advanced by the Treasury Bench through none other than a well known jurist in the person of Mr. Komattil Achyuta Menon. Against such opposition leave was granted by the necessary number of persons if not more standing up in their seats to allow the discussion. The discussion that was intended to be raised through the adjournment motion was anything but what subsequently transpired into a reality. What was sought by the adjournment motion was the issue of a Proclamation by His Highness to the effect that thence forward no more suits for eviction of tenants from their holdings shall be instituted and those that were pending in the courts will be stayed. It was that innocent issue that was opposed—vehemently opposed—by the Government. It is important to note that in the reply by the Government on that adjournment motion the spokesman of the Government assured the House *that no harm is going to befall the tenant in as much as there was a retrospective clause in the Bill that is reported upon throwing back the operation of the enactment to 1st Kumbham 1114, and that soon after the consideration of the amendments by the Government they will be taking the Bill through further stages.* That was the promise held out to us. This House trusted their statements. That was in Meenam 1115. The next meeting was in Karkadagam of the same year. In spite of their promise the Government did not bring the Bill for consideration. For all the next three legislative meetings of 1116 there was a wanton failure on the part of the Government who were the sponsors of this Bill to take it through further stages *as promised by them.* The next session also dawned upon the country. There was no move. But by that time, Sir, a change almost in everything in the State had taken place. Our present Maharaja had assumed the reigns of the Government. There was a change in the Diwan and your goodself was appointed as His Highness's Advisor and results followed immediately. Results, I submit, Sir, to the benefit and advantage of the tenants followed immediately. I am referring to the two Proclamations that find a place in the Bill that is before us. Proclamation No. 3/17 followed by Proclamation No. 6/17. Proclamation No. 3 was to the effect that the beneficial provision of the Agriculturists' Relief Act extended to the tenants allowing them to pay their arrears in three instalments which would clearly be over by 1116 the time was extended to 17, 18 and 19. That was the benefit granted by Proclamation No. 3. We are glad that you have been able to advise His Highness and the Highness was pleased to accept your advice and to issue the Proclamation. But the more relevant Proclamation is Proclamation No. 6/17. What was sought through the adjournment motion already referred to by me was without any further effort on the part of the non-officials or the public advised to be issued by your good-self and graciously granted by His Highness the Maharaja. This Proclamation orders that hereafter suits in eviction will not be filed against verumpattamdars and suits already pending will be stayed and suits many in number have been stayed. But, Sir, the mischief had been wrought between the declaration of the Diwan President already referred to and the date of the Proclamation, *viz.*, 13th Vrischigam 1117. My Hon'ble friend, the Member for Kunnamkulam, has through a question of his, answered by the Government in this House in the Budget Session has succeeded in collecting statistics to show the extent of the mischief already wrought by the Jenmi class. Yesterday, at the time of the discussion of amendment No. 2 the very clever, Hon'ble Advocate-General referred to this question of Mr. Iyyu and drew certain *presumptions* and argued his case to oppose that amendment on those *presumptions.* His position then, Sir, is worth hearing. You were not in the chair then and I may be allowed therefore, to refer to it. His position, then Sir, was, in as much as the Hon'ble Member for Kunnamkulam who put the question with a set purpose did not pursue the question answered through any supplementary question and so he assumed that the Hon'ble Member for Kunnamkulam had no case. That was the position taken up, though in a very humourous mood, and wanted the House to think that no real hardship had befallen the tenantry by the non issue of a Proclamation in Meenam 1115 or by the non-consideration of the Bill in Meenam or at any subsequent meetings and before the issue of the present Proclamation. But it is very gratifying to note, Sir, that the Hon'ble Advocate-General assured the House that the position shall be reconsidered if any real hardship had actually been worked. I am sure, Sir, that you will be seeking the advice of the Advocate-General, who is there for that, on this issue. Sir, I will refer to the answer given by the Government. Unfortunately at the time of the discussion

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yesterday the information regarding the number of suits filed was not known either to the Government or this side of the House. But I have hinted up the question. One would shudder at the information gathered. Answer to question No. 39 of the Budget Session of 1117 showed that 1,051 suits have been filed by various jenmies, not giving relief even to a single civil court having original jurisdiction.

Mr. President: I think the Hon'ble Member is arguing yesterday's amendment. I would suggest that the Hon'ble Member will confine himself to this amendment.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I am advancing Sir, arguments in support of this amendment and I have unfortunately to repeat the arguments that were advanced in favour of yesterday's amendment because the basis upon which the two things turn remains the same. Though the declaration was made by the Diwan President in Karkadagam 1114, with the best of intentions the two things referred to therein namely, very many cases for eviction being filed by jenmies and change of tenure being effected, both these have really taken place. The latter, *viz.*, change in tenure is the subject matter of the point under discussion now. Yesterday if this information were available, *i.e.*, the staggering figure of 1,051 eviction suits being filed between 1st Kumbham 1114 and the Proclamation I am sure the Hon'ble Advocate-General would have taken a different stand and atleast the Government Benches would have remained neutral which would have shown a different result when the polls were taken. It was thus, absolutely necessary for one to refer to yesterday's arguments.

Sir, you would be pleased to find that as many as *1051 suits were filed out of which 759 had ended in decrees—a piece of information for the Hon'ble Member for Chalakudi—and out of the 759 decrees as many as 227 have reached the final* stages of harrassing the tenant by evicting him. 759 suits which ended.....

Mr. President: Once more I must ask the Hon'ble Member to confine himself to this amendment.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Sir, I will wind up by saying that as many as 227 out of the 759 decrees already passed ended in eviction. Not a pleasant thing for the tenant at any rate. That was one mischief. The other mischief is change of verumpattamdars into varapattam and pankupattam tenants which form the subject matter of the amendment.

Now, Sir, I can speak from my knowledge of and my intimate contact with the tenant population of the taluk from which I hail, a taluk which is infested by the largest number of jenmies, I may say, from these that many verumpattam tenures have been converted by jenmies into evictable tenures like varapattam and pankupattam tenures made evictable under the Government Bill reported in Kumbham 1115 and repeated as evictable in the Bill under consideration now.

Mr. T. A. Ramachandra Ayyar *(Nellayi):* What will be the approximate number.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* In these matters it is dangerous to roam in the regions of approximation. I can assure the Hon'ble Member for Nellayi that it is a very high number. The Hon'ble Member himself knows living as he does in the midst of jenmies, that round about him such changes have taken place if he will speak out his mind.

Mr. T. A. Ramachandra Ayyar *(Nellayi):* Question.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Well, you may question but the fact will be there.

Sir, many a change from non-evictable to evictable tenures has been effected. The object of this amendment is, as I submitted before, to give relief to the tenants whose tenures have been converted from tenures non-evictable to evictable tenures subsequent to 1st Kumbham 1114. It is urged through this amendment that verumpattamdars converted into varapattam and pankupattam tenants subsequent to 1st Kumbham 1114 be given fixity of tenure. Class 2 (d) amended will read as follows—"Verumpattamdar" means a lessee or sub-lessee of immoveable property who has contracted to hold the same under a lease with or without muppattam either as a tenant at will or during a fixed term and includes a Tharikuthukaran of the Chittur Taluk, but does not include a holder of kanam, nerkanam otti, adima, anubhogam and other cognate tenures or *a varam or a pankupattam tenant* or a Kudikidappukaran.

"Provided that Varam and Pankupattam arrangements created after 1st Kumbham 1114 of holdings which were verumpattam tenures before the said date shall be considered as verumpattam tenures."

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"Exception :—Varam and pankupattam tenures granted by Receivers appointed by Courts of Law shall not be affected by this proviso".

That will be the amended clause. An exception like the one in the amendment has necessarily to be made that varam and pankupattam tenures granted by Receivers appointed by Courts of Law shall not be affected by this proviso. This is the amendment that I want to be introduced in clause 2 (*d*) definition of a verumpattamdar. I am sure that Hon'ble Members who opposed the amendment yesterday will be pleased to extend their support to me and I believe that from the exposition of the mischief, that I have shown the Government will certainly be taking a changed attitude in matter of this amendment. I am even hopeful that the amendment may be accepted by them or at least at the time of voting they may be pleased to remain neutral so that this House may be able to understand the non-official view on this all important question. The Government being the sponsors of this Bill are not bound to oppose if they find any substance in the object of the amendment. With this appeal I resume my seat for the present reserving anything more that may have to say to my reply.

Mr. M. K. Devassy *(Adur)*: I beg to second the motion. And in seconding the motion I would like to suggest that with a view to expedite the passage of this Bill there may be a time limit.

Mr. President: I was thinking of suggesting the same method. There are 80 amendments and if members are going to speak for 25 minutes on each amendment we would never get through the Bill. I can only appeal to the good sense of the Hon'ble Members to make their speeches as short as possible.

*__Mr. A. V. Moothedan__ *(Chalakkudi)*: Sir, I am constrained to oppose this amendment and I do that in the interest of a large number of small land-holders in the State. I may say for the information of the House that very many people have approached me saying that people holding some 2 to 5 acres of land should not be considered as land-holders for the purposes of this Act. I really think it is very hard but for general principles I never agreed to that. Now Sir, my friend, the mover of this amendment, is going too far. I have stated what my position is when the Bill was introduced. I want to be fair to both the land-lord and the tenant. I am myself a Jenmi and I have several tenants under me and I have not converted the verumpattam tenants into varam tenants.

The amendment according to me is incongruous. On the merits of this amendment I should say that it adversely affects small land-holders. When you read the whole scheme of the Act with the present amendment you will be nowhere.

Now my Hon'ble friend referred to some statistics. He was saying that there were more than 1079 cases of eviction. I can boldly say that those figures are quite misleading. Those will include also cases of usufructuary mortgage and lease back.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Question.

Mr. A. V. Moothedan *(Chalakkudi)*: Now, Sir, my friend has been repeating again and again about this "Varam" to mean a sort of tenure. I may say at the very outset that this is not a tenure at all. What is this Varam or Pankupattam. Let us have an idea about this. Lands are only let on varam or pankupattam in the case of these small landholders. Small landholders who are not in a position to cultivate themselves entrust their neighbours or friends to do it on their behalf and they will be paid something. The small landholders will be giving them the necessary seed for cultivation. The landholder will be saying, "you please cultivate for me and we shall divide the crops between ourselves. It is simply like a feast. A small landholder inviting a few people to share in the crops. This is only a seasonal arrangement. When it is time for the sowing of the seeds, he will call his neighbour or friend and entrust him with the work of cultivation and at the time of the harvest they will apportion the produce according to the arrangement they have come to. It is none else than a friendly arrangement and law has not recognised it as a sort of tenure. My friend has been repeating about this varam tenure. I say this is not a sort of tenancy at all.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Curious notions.

Mr. A. V. Moothedan *(Chalakkudi)*: It may be curious to you. But I refer to the High Court decisions. Is there any definition of the term varam anywhere. There is no decision to

*Speech not corrected by the Hon'ble Member.

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the effect that varam is a sort of tenure. Let us see what is the definition of the word 'Tenant'. We shall go to the Tenancy Act because my friend is making fundamental mistakes. It is my duty to correct him. The definition of 'Tenant' in the Tenancy Act is this. "Tenant" with its grammatical variations and cognate expressions, includes a person who as kanam-tenant, lessee, sub-lessee, mortgagee or sub-mortgagee or in good faith believing himself to be kanam-tenant, lessee, sub-lessee, mortgagee or sub-mortgagee of land is in possession thereof or who, with the bonafide intention of attorning and paying a reasonable rent to the person entitled to cultivate or let waste land, but without the permission of such person brings such land under cultivation and is in occupation thereof as cultivator.' I would request the Hon'ble Member to take particular note of the words 'is in possession thereof'. Therefore for being a tenant under the Act two conditions are attached. The first is the tenant should be in possession of the holding and the second is that he should be paying a fixed pattam to the landlord. These are two important conditions. I ask in all seriousness whether these two conditions are attached to 'Varam or Pankupattam'. These two conditions are absent in Varam and therefore it is not a tenure. Therefore I say that this amendment is incongruous and illegal. He could have moved this amendment in a better form. According to me the amendment is not properly put. What is the meaning of adding this proviso. The mover could have amended the definition of 'verumpattamdar' itself. Now you are saying one thing in the clause and you are saying the opposite of it in the proviso. The amendment reads thus.—"Provided that Varam and Pankupattam arrangements created after 1st Kumbham 1114 of holdings which were verumpattam tenures before the said date shall be considered as verumpattam tenures. *Exception*: Varam and Pankupattam tenures granted by Receivers appointed by Courts of law shall not be affected by this proviso." That Explanation is quite unnecessary. Courts of law are to administer justice and therefore to administer justice they have got the power to do it otherwise. Even without this exception Courts of Law have got the power. My friend wants these Varam tenants to be given fixity of tenure. Suppose a landlord has given his land on varam in 1114 to A, in 1115 to B and in 1116 to C. Then my question is who should be given the fixity of tenure. My friend is silent on that. This Bill is going to be on the Statute Book and we ought to be very careful.

Then I will come to clause 5 of the Bill. Clause 5 says "(1) Subject to any remission to which a verumpattamdar may be entitled to under the provisions of this Act, the pattom payable by a verumpattamdar in respect of his holding under the contract of tenancy subsisting at the commencement of this Act, shall not be enhanced or reduced on any account whatsoever. (2) In the absence of any express stipulation to pay rent in the contract of tenancy, a Tharikuthukaran of the Chittur Taluk shall be liable to pay to this lessor an annual pattam calculated at the rate of one annaper cent of land comprised in his holding". Now under this clause the varam tenant when he get fixity has to pay pattam to the landlord. I ask what is the pattam the varam tenant has to pay. There is no contract of tenancy. It is only a seasonal arrangement. The landlord is entitled to get pattom. Now under section 5 what is the pattam the varam tenant will pay to the Jenmi. My friend will be pleased to enlighten me on that point. There is no amendment to clause 5. Now if this amendment is passed and if we pass on to clause 5 we will be placed in a difficult position. Since there is no arrangement to pay pattam, the landlord will not be getting anything. Therefore I say that this House should not be a party to such an amendment. There is the other thing also. These big jenmies like the Paliam Estate, Cheranellur Estate never give their holding on varam. That is my experience. Only small landholders let their lands on varam. Government servants and such people may let their holdings on varam. Therefore my humble submission is that we should not be a party to penalise them. It is only a friendly arrangement. We have not so far given any statutory recognition to varam. For these reasons I am opposed to the amendment.

Mr. Krishna Menon *(Trichur-North)*: Sir, I beg to support this amendment. This amendment is not to be so pooh-poohed as attempted by the Hon'ble Member for Chalakkudi. Now, the principle underlying this amendment has been explained to this House by the Hon'hle Member for Vadakkancheri. I don't want to repeat the arguments. Now, Mr. Moothedan's argument was that the term "varapattam" could not be well understood by this House. The term "varapattam" I may say, has one meaning among the Nambudiries that it is a feast. But such meanings could not be attached to this amendment. That should not be the argument. I may ask the Hon'ble Member for Chalakkudi whether he has not heard of the term "varapattam". Does it not connote the meaning of a tenancy? Sir, the term "varapattam" connotes the meaning of a kind of tenancy and it was the purpose of the Mover of this amendment that such a tenant also should be included in the term verumpattamdar, and

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that was the purpose of this amendment. The Hon'ble Law Member would of course argue that it will be giving retrospective effect to the section. But I at once say that in this particular matter some retrospective effect has to be given in favour of the tenants and I support the amendment.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* I oppose the motion. I have got various reasons for opposing the motion. The first reason is this. Yesterday amendment 1 and the last two sub-divisions of amendment 2 were thrown out. The consequence of that is this. The object of those amendments was to give retrospective effect to the present Bill by which those persons who were verumpattam tenants on the 1st Kumbham 1114 would still be considered to be within the ambit of this new Bill. Now, the status of those verumpattam tenants could have been changed by two processes. One is by eviction through a court of law and the other is by surrender by the act of parties. The amendments thrown out yesterday had reference to eviction through court of law and therefore that class of persons who have been evicted are now not affected. This amendment seeks to protect those who voluntarily surrendered their holdings to their jenmies and then accepted what is called varam or pankupattam. This amendment assumes that the properties once got by voluntary surrender are still being cultivated by those very tenants who were holders of it before the surrender. That is the assumption in this. I don't think there is much to support that assumption. After the surrender, the varam or pankupattam tenant may have become different. In some cases, if the man behaved properly, the same man might have been chosen and continued. In an equally large number of cases, the original verumpattam tenant might not have been chosen or continued after the surrender. The object of this amendment is to give permanency or to bring that person who is in possession now, and call him a tenant under the present Act. I submit it is certainly extending a benefit to a class of persons who do not deserve it if we judge it on the same principle on which we threw yesterday's amendment. That was forcible eviction through court of law. This House was not prepared to extend its support to that. The consequence of this will be that we do not propose to protect them, but we propose to protect those who voluntarily surrendered. What is the comparison? What is the principle underlying such protection. I submit therefore that in principle, this amendment cannot be accepted. Then, as I said, what are the the consequences of accepting this amendment. The first consequence is this. This amendment assumes that the person at present in possession is the same verumpattamdar who was in possession in those days. It need not necessarily be. If so, what is the consequence of this amendment? The amendment assumes whoever be the pankupattakaran, the man who is cultivating will get the benefit. Nobody is in possession now if there is no crop on the land *i.e.*, if the crop has been harvested. As was explained by the Hon'ble Member for Chalakkudi, varam is only permission to cultivate under specific arrangements for the particular season. That is what is called pankupattam also. The moment that season is over, unless the landlord calls him and says to him, all right, cultivate for the next season also he cannot be in possession. The October—September crop was over long ago and if it is only single crop or virippu crop nilam, then until the next cultivation season begins, it is at the sweet will and pleasure of the landlord to call that man and give him the land for cultivation. Similarly in the case of mundakan crop and the same with reference to punja or kole crop. Therefore, to assume that a man who is called upon to cultivate for a particular season is to be in possession of the land for all time, is certainly not in consonance with the ordinary conception of the term possession. A third person who is simply called for cultivating the Makaram crop is not identical with the person who is the verumpattamdar. Now we are giving permanency. Does this House or the framers of this Bill or those who wanted to give the benefit of permanency to verumpattamdars ever contemplate such a consequence? I will next take the case of the landholder and will just think of the consequences that will follow on his side. This amendment also assumes that that man who got surrender from the then verumpattam tenant is still the owner, or is still in possession or is capable of parting with the possession. It may not be, and will not be so in a large number of cases. Apart from voluntary sales which might have taken place in large numbers, suppose his rights have been sold in a court of law. Is there any sense in saying that he who paid hard cash not for the right of becoming a landlord only, but also for having the right of possession which is most important in case of paddy lands, should not have the benefit of that possession for which he paid? Again there will be another class of persons. Supposing there is a partition between the members of a family and at the time of the partition when the co-parceners valued the property, they value every right which the family had at that time as they ought to and would do. Suppose unfortunately one man gets one item

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of property which has been so reduced to possession, which has been valued, not as if it were outstanding in the hands of a tenant, but as if it were in the possession of the family itself. What is the fault that he has committed? He loses, he becomes a bad partner in the partition. In this way, there will be persons on both sides who will be seriously affected. I submit to the House that if we accept the amendment, it will go against the principle for which we are fighting.

Mr. V. J. Mathai *(Planters)*: Even after listening....

Mr. President: I think you could have spoken before the reply.

Mr. V. J. Mathai *(Planters)*: I would have spoken had there been such a mandatory provision. I submit that the convention of this House does not go the other way.

Rama Varmha Tampuran *(Secretary to Government)*: That was changed long long ago.

Mr. V. J. Mathai *(Planters)*: No, even yesterday it was done.

Mr. K. Ayyappan *(Ezhuvas-Kanayannur)*: Sometimes when a motion is made here, Government Members will be asked to give their view of the matter. In that case, the other members will speak after the Government Member has already spoken and they will have a right of reply afterwards. In this particular case, the Chair waited for the non-official members to speak and for the last time, the right of reply was given to the Government Member. When that reply is over, only with the permission of the Chair, can the other non-officials speak. This is the usual procedure.

Mr. V. J. Mathai *(Planters)*: I would have spoken but waited to hear the Government side. I request that for the future this rule may be applied.

Mr. President: This time, I shall make an exception in this particular case, reserving the right of reply to the Government Member.

Mr. V. J. Mathai *(Planters)*: I may assure the Chair that I shall make my speech as brief as possible. The first point raised was that certain amendments were thrown out yesterday. There is no provision of law under which amendments though thrown out at a previous stage could not be introduced in the proper place—and the amendments are not identical. Yesterday's amendments were seeking to give retrospective effect to this bill. Here what is now sought is that those persons who have tried to evade the law by converting the verumpattam tenures which existed on the 1st day of Kumbham 1114 should not be allowed to get the benefit of the short-circuit. Therefore there is no technical bar to the moving of this amendment and the Chair has been pleased to allow it for which I am thankful.

The Hon'ble the Diwan Peishkar spoke about voluntary transfers. That is assuming what exactly is not the case. I can assure the Chair that once Government had proclaimed that it was their intention to give permanency of occupation to the verumpattam tenants, it could be assumed without any discussion and argument that nobody in his senses would have parted with the valuable right. Therefore we can take it for granted that once the Government said through the Diwan President that verumpattam tenants would be protected. You can take it that nobody in his senses would part with such a valuable right. We can therefore assume that there will be no voluntary transfer of varam or pankupattam. It is not a lease; it is more like a licence. Therefore they are not voluntary; they must have been involuntary on account of the dominant partnership and the tenants being unable to resist the orders of the landlord. Probably the tenant has other obligations to the landlord. Therefore I say it is wrong to assume that the transfers were all voluntary. Why should they do not get permanency? The Hon'ble the Diwan Peishkar said the consequences on the tenant who might have changed. What is the harm for the tenant? Instead of A, B comes in and he must get the right of occupancy. He must get the benefit of the proclamation. There is absolutely nothing wrong in that. Then he spoke about the landholder from whom the land might have changed. I am sure it was known to everybody in Cochin State that permanency of occupancy will be given to verumpattam tenures. If that be so, if the landlord had transferred a property which was already leased, we can assume without any difficulty whatsoever that the transferee would have taken it on reasonable apprehension. If A has transferred his jenmam right to B of a land which is already leased out, we must take it that B must have parted with so much money subject to the right of revocation.

Thirdly, the Hon'ble Diwan Peishkar spoke about partition. Can anybody take it that the partition of property already leased to a verumpattamdar tenant would not have been considered. If any family properties were already leased, you can take it that the members of the family

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would have known it by 1st Kumbham 1114 that verumpattam tenures are not of so much value, as they were before. Therefore if partition were effected, we can assume that those properties would have been given so much value after taking whatever that is due on account of the fact that the property is a verumpattam tenure. The only assumption behind is that people in the Cochin State did not know that the Government intended to give permanency of tenure to the verumpattam tenant on a question of principle. It comes to this. This Government is bound to maintain its prestige and to abide by the word which it has given to the tenant that if any jenmi seeks to convert the verumpattam right into some other tenure and tries to short-circuiting to defeat the decided proclamation of the Government, then the Government will step in and take proper measures. Therefore I appeal to the Government and I point out to the Government that the prestige of the Government is at stake, the declared word of the Government is at stake. I appeal to the Government to see that the prestige of the Government, the promise made by the Government, is kept up.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* The opposition to this amendment has effectively been answered by my Hon'ble Friend, the Member for Planters. I shall only refer to his last point, namely, that the declared solemn words of the Government of Cochin be kept up. The words are worth repetition "....*Because, in fact, there would necessarily be a provision in such a measure that Verumpattam tenancy which could be proved during the last one or two years will be considered a Verumpattam tenancy notwithstanding anything that might have happened during the interim period. So the tenants need not be apprehensive about that nor the landlords be jubilant that they got breathing space to get rid of these Verumpattam tenants*". These unequivocal words of the Government, so solemnly made by the Diwan President of this House from this august place—will they be kept or not, is the issue involved.

Mr. Shabdai S. Koder *(Nominated):* Government have become wiser.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Yes, wiser the Government have grown I admit and they have therefore brought forward this Bill which is a distinct improvement on the Bill with reference to which this statement was made; but unfortunately failed to remedy the mischief created by the declaration in question and their subsequent inaction. We are indeed grateful to His Highness the Maharaja, for having advised the Government to bring forward such a beneficial measure, but the Government failed, I shall say unwillingly failed to give effect to the implications of this important declaration. I shall now briefly answer the points raised by so eminent an advocate as the Hon'ble Member for Chalakkudi who has not been able to go through and understand the implications of the amendment. A specific, definite, restricted case alone is put forward through the amendment, namely, those verumpattamdars whose tenures have beenconverted into varam and pankupattam tenures since a particular date *viz.* 1st Kumbam 1114 be restored to their original position, thereby entitling them to enjoy the beneficial provisions of the Act. That is the restricted scope of the amendment. The Hon'ble Member for Chalakkudi was complaining that the word pankupattam is no where defined. It will be monstrous to define such self-explaining terms like varapattam and pankupattam. Legislators shall not descend to the level of my friend from Chalakkudi. Pankupattam and varapattam tenures are things which cannot be understood by him is something which I did not expect from such an eminent Advocate like the all knowing member for Chalakkudi. Without attempting to reply to rumbling arguments in which there were no points, I shall now request the Chair to put the amendment to the vote of the House.

Amendment put and lost

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Sir, I rise to a point of order, whether the Hon'ble the Advocate-General sitting in this House can vote under the Constitution Act? Under the Constitution Act, the Advocate-General and the Hon'ble Minister shall not take part in voting.

Mr. M. Sivarama Menon *(Advocate-General):* I am now nominated as an ordinary member. Advocate-General need not necessarily be a member of the House. Suppose Government wants the advice of the Advocate-General. He can be immediately summoned to give the advice. The case referred to by the Hon'ble Member for Vadakkancheri relates only to cases where as a matter of fact the Advocate-General is not nominated as an ordinary member.

Mr. C. V. Iyyu *(Kunnamkulam):* Sir, I beg to move the following amendment. —

Add as sub-clause (*e*) the following—"Customary Verumpattamdar or Pattacharthudar means any Verumpattamdar who is entitled by custom of the locality in which the land is situate

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to possession of the said land for a definite period of years and for whose continuance thereon after the termination of that period, for a further period, a renewal fee has to be paid to the landlord (lessor) as an incident of the tenure."

This is due to the fact that there is a peculiar sort of tenure existing in the territory which was ruled by the Zamorin and subsequently handed over to Tippu-Sultan and then to the British, and within the last fifty years, it was handed over to our State. There is history behind this sort of tenure. All these lands are even now belonging to the Zamorin's estate. When Zamorin was a ruler, and at the time he had strength to defeat other ancient rulers, he got possession of large areas of lands in our State. Then the subsequent rulers of our State fought and recaptured some portion, mainly, one Revenue village and one desam in my constituency which consists of a large majority of the estates belonging to the Zamorin as a jenmi—the Malabar Tenancy Act has given fixity to such tenures, because there are in Malabar vast areas of such lands. This sort of customary verumpattamdars are now neither verumpattamdars or kanamdars. There were cases in our High Court which came to a decision whether this tenure comes under the Tenancy Act XV of 1113 as existed here. The High Court decided that no fixity of tenure has been granted to such lands according to the Cochin Tenancy Act. These lands are even now given on melcharthu and muppattam. They issue a kanamcharth without getting any kanartham. There is a saying in Malayalam that till the Shastipoorthi of the late abdicated Maharajah of Cochin no Maharajah of Cochin has celebrated his Shastipoorthi because all were shortlived. Similarly no Zamorin has celebrated his Shashtipoorthi, because only after attaining the 60th age that he ascends the musnad. In our State, no Maharajah who comes to the musnad used to live 60 years. Generally Zamorins come to the musnad only after they are 80 or above and when they come to power, they will be in power only for two or three years after which they die. During this period, they will have to give everything to their wife and children. The poor tenants will be asked to renew his tenure. By the time the renewal takes place again Zamorin dies and again another begins pestering of these poor tenants. Nobody is there to represent their grievances. I need not express to this house the illiteracy, the incapacity and the slave mentality of most of our verumpattam tenants in the State. I appeal to the House and the Government to accept this amendment. Government have realised this and it is because of that that they have been forced to bring such a Verumpattam Bill. This matter has been brought to the notice of the 1115 Select Committee and the recent one by my submitting a note, as well as the rulings of the High Court in connection with this and the Hon'ble Advocate-General in a personal talk to'd me that I may bring it as an amendment. There is a doubt whether even the existing Act will be able to protect such sort of customary verumpattamdars. Such a learned Advocate as Mr. Kuttikrishna Menon, who presided over the deliberations of the recent Malabar Tenancy Committee, and with whom I had a discussion on this subject told me that it may not give the desired effect for giving fixity to the customary verumpattamdar. So I was constrained to bring this amendment to save hundreds of tenants of my constituency. There may be other areas which may have the same sort of land tenures which have not come to my notice. So I appeal to this house to accept this as part of the definition contained in the Bill.

The House rose for lunch at 1 p.m., and reassembled at 2-30 p m., with Rao Sahib K. Ayyappan, Deputy President in the Chair.

Mr. C. V. Iyyu *(Kunnamkulam):* I would like to hear the position of the Government in this matter.

***Mr. M. Sivarama Menon** *(Advocate-General):* Sir, it is perfectly true that the Hon'ble Member for Kunnamkulam brought to my notice the case of the customary verumpattamdar. And on enquiry into the points raised by him, it was found that the case of the customary verumpattamdar had to be examined on the merits and in the light of several documents. Though we held our sittings at Trichur, nobody came forward to press the case of those who have been affected by this. I compared the provisions of the Malabar Tenancy Act with the provisions contained in the Verumpattam Bill. There are certain questions which are not applicable to verumpattamdars as known in the State, because the customary verumpattamdars have to pay renewal fees after 12 years. The definition lays down the obligation on the tenant to pay renewal fee. Whenever there is obligation to pay renewal fee, the inference is that the rent fixed would be something less than what we call fair rent. They are more akin to kanam in this respect. At the same time there is no initial lump sum consideration for the tenure. Therefore it is not kanam also. There must have been an initial lump sum payment for which

*Speech not corrected by the Hon'ble Member.

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deductions will be made. Therefore it cannot be called kanam or verumpattam. The question has not been fully examined in the absence of necessary documents. What exactly is the nature of the tenure, it was not possible to consider. Therefore I told my Hon'ble Friend for Kunnamkulam that it is not a matter which is within the scope of the Bill. There is a difference between the two classes of tenures, and we want to avoid all sorts of confusion with regard to this very plain Bill. There should be absolutely no difficulty to work it up by bringing within its scope a tenure which is intrinsically at any rate not connected with it. If as a matter of fact there is any strong case for the customary verumpattamdar the agency appointed to consider that question will have to hear the objections. The scope of the enquiry would have been entirely different in accordance with the reference made by this House. Therefore that matter was left untouched. I do not at present say that they deserve or do not deserve legislative protection. It is a matter for investigation. It has to be considered on the merits separately and if there is a case, that case has to be separately dealt with. There may be a customary Verumpattam Bill that will not lead to any confusion at all. That question has not been considered on its merits. I think as a matter of fact the introduction of the provisions relating to customary verumpattam will render the smooth working of this Bill quite difficult; it will lead to certain anomalous positions. That tenure is not in vogue in any part of the State as pointed out by my learned friend except in one or two places. The question is whether there is a local custom. We have not heard of the kind that is spoken of by the Hon'ble Member for Kunnamkulam. Therefore we have to decide as a matter of fact whether there is any particular locality in the Cochin State where such a custom exists. Therefore the scope of the enquiry would have been different. Therefore, without making any commitment, I would advise the Hon'ble Member for Kunnamkulam to withdraw all amendments. That question has to be considered independently if it deserves any consideration.

Mr. C. V. Iyyu *(Kunnamkulam):* In the light of the explanation given by the Hon'ble Member for Law that the matter will be considered sympathetically. I withdraw my amendment No. 8 and all the amendments connected with customary verumpattam.

Amendment, by leave, withdrawn.

Clause 2 as amended, put and carried.

Mr. C. K. Nayar *(Nemmara):* I don't move. (Amendment No. 9 to clause 3).

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Mr. President, Sir, I shall now move the amendment standing in my name.—"Delete the semi colon at the end of (*b*) and add the following before "or"——"Except in cases where the property usufructuarily mortgaged has been outstanding on lease at the time of the usufructuary mortgage and such lease is allowed to be continued under the usufructory mortgagee." I shall just explain. Clause 3 refers to cases as many as six which are to be excluded from the purview of this Act. Clause (*a*) is with reference to lands owned by Government and clause (*b*) relates to leases granted on usufructuary holdings. I propose to introduce through this amendment an exception to that exception (*b*). Cases like these under clause (*b*) are rightly taken out of the purview of this Act because of the implications of the leases granted by a usufructuary mortgagee. The mortgagee is bound to give back the property to the mortgagor on redemption. Therefore it cannot be a lease to which non-evictability can be attached. Therefore the exception is rightly there. I have through this amendment sought to introduce an exceptional case of holding the property under usufructuary mortgage. The implications of that amendment are when A mortgages his property to B and in cases where the property of A was outstanding with a verumpattamdar at the time of the mortgage to B—in cases like that, if instead of exercising the usufructuary mortgagee's rights to evict that old tenant under the original owner, he allows that old tenant under the owner to continue his possession as lessee under the usufructuary mortgagee, such cases must be taken out of the purview of this exclusion. As far as the old tenant is concerned, he has to look to a new master *viz.*, the mortgagee for payment of his pattam instead of his old master the owner. That is all the change effected. In such cases the tenant who is the original verumpattamdar may be or may not be evicted is the purport of this amendment. I commend the amendment for the acceptance of this House.

Mr. K. Narayana Menon *(Mulakunnathukavu):* I second this amendment. From the wording of clause (*b*) it might appear no doubt that the usufructuary mortgagee who grants a

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lease will not be affected by this. But the unfortunate defect that probably calls for this amendment is that there may be instances where even at the time of the mortgage the properties were already outstanding on lease, the mortgagee would have taken into his head to evict the then tenant of the property and to release it to somebody else. In that case, the original lessee from the owner in case of redemption is going to be dispossessed of the property which otherwise cannot be. It is for the purpose of remedying such evils that the amendment is proposed. I don't think it will be unacceptable.

Mr. M. Sivarama Menon *(Advocate-General)*: It has not been the intention of the Government that leases outstanding on the date of the usufructuary mortgage should be affected by this sub-section. And therefore care was taken to include in the sub-clause this particular term lease granted by a usufructuary mortgage. It is only leases granted by a usufructuary mortgage that will be saved from the operation of this Bill. He can become a usufructuary mortgagee only after the execution of the document. Therefore the sub-section as it stands was meant only to affect leases executed by a person after he becomes a usufructuary mortgagee. Leases granted by a usufructuary mortgagee or by any person holding or deriving interest from him are safe. The other leases will never be affected. The starting point is the date of the execution of the usufructuary mortgage. All leases granted from that date are sought to be saved. When the money is paid back the mortgagor must be in a position to get back the property. The mortgagor himself will not have the right to get the property because he will not come into possession of the property. Therefore the word as it stands is perfectly all right. There need be no apprehension on that score. Ofcourse, any legislation will be capable of being interpreted differently. We cannot expect all sorts of contingencies. The House is here and we can remedy them.

Mr. K. Narayana Menon *(Mulakunnathukavu)*: As a matter of fact, we ought to see whether at this stage, there is any scope for such apprehension, and as reasonable and prudent men, we must consider the clause as it stands. That is the reasonable sense of interpretation that appears *prima facie* to be good and appropriate.

Mr. M. Sivarama Menon *(Advocate-General)*: I make a declaration that the Government had no intention of saving leases which existed prior to that date, from the provisions of the Bill.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: I should like to know from the Hon'ble Advocate-General whether this clause as it stands will take in the case of the original tenant being given lease by the usufructuary mortgage.

Mr. M. Sivarama Menon *(Advocate-General)*: No; because it is in respect of only leases granted. Who is the executant? You are taking a person away. There is a prior lessee and he comes in. That is an arrangement between them if he does not want fixity. Let him go and attorn. Suppose we legislate like this. They come to some arrangement. We legislate for a proposition that a person who derives some interest cannot be saved from the provisions of the Bill, because the mortgagor must be in a position to get back his property. That is the principle. We do not want to have any language to be adopted. We want to have everything in the clearest language. I will have no objection to have the wording changed at the third reading. We can decide ourselves. There is no difference of view at all.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: On the assurance of the Advocate-General that there is no difficulty in changing the wording at the third reading to meet the purpose in hand, I don't want to press the motion. I seek leave of the House to withdraw the amendment.

Amendment, by leave, withdrawn

Mr. C. V. Iyyu *(Kunnamkulam)*: Amendment No. 11. I don't move.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Mr. President, Sir, this is a very important amendment. I move that sub-clause *(f)* to Clause 3 of the Bill be deleted. Sub-clause *(f)* is one of the six cases of exclusion from the operations of the Bill. In other words leases of lands used for the cultivation of paddy alone will have fixity of tenure within the municipal limits and not others. That is all lands held on verumpattam within the municipal limits but not used for the cultivation of paddy will be evictable. For introducing this exclusion,

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the Select Committee has given its reasons. Their argument is that the tenants in possession of garden lands in municipal areas have not contributed to their enhancement value. Now, it will be wrong according to me to say that in making improvements to lands in municipal areas, the tenant in possession of such lands has not contributed to its improvement. There is a fallacy in that argument. The very fact that the existence of lands fit for cultivation of paddy is contemplated by this clause is the basis of my argument for the amendment. The garden might well have been land originally fit for cultivation of paddy but, being converted into a garden by the tenant. It will not be contended that the conversion was not the work of the tenant in possession of it. It will be wrong to say that it was the landlord who converted the paddy land or any other land into garden in municipal areas. Therefore, I maintain the tenant in question has contributed and he alone has contributed towards the conversion. True, its value has gone much higher than the actual improvements effected by the tenant, because of the fact that the area converted into garden happens to be in a municipal area. And the implication of a plot of land being in municipal area will certainly have contributed towards its enhanced value. But initially the tenant has contributed to its converted position. Therefore to say that such a tenant is not to enjoy the benefits of this salutory Act will be unjust. It will be an act of injustice to the persons who were primarily responsible for the conversion and from the standpoint of the landlord, sufficient remedy and relief is proposed through another amendment. Amendment No. 20 again standing in my name under clause 5 of the Act. Clause 5 enunciates that the existing pattam even if it amounts to a case of rackrenting or if it is very very low as in the case of exceptionally good jenmies shall be considered as fair rent for all time and the same shall not either be increased or decreased. I have tabled amendment No. 20 as an exception to clause 5 which says that the pattam under no circumstances will be enhanced, but amendment 20 provides for the increasing of the pattam of such garden lands in municipal areas. Therefore from the stand-point of the lessor, the landlord, he is sufficiently compensated being allowed to enhance the pattam of garden lands in municipal areas and by accepting amendment No. 12, that is deleting sub-clause 3 from the exclusion contemplated under main clause 3, the tenant is protected by being given permanency of occupancy rights. So these two amendments taken together will work out equities between the landlord on the one side and the tenant on the other. For these reasons, I commend the amendment for the acceptance of this House.

Mrs. Joshua *(Trichur-Women):* Mr. President, I rise to support amendment for including verumpattam lands in municipal areas within the purview of the Act. I am fully conversant with the idea and opinion expressed by the Select Committee for their extension and I am constrained to submit to the Hon'ble House that they are neither founded on true facts nor on good logic. The fallacy underlying the argument against inclusion is only translucent. To treat the value of the holding independent of the lessee occupier is to forget the genesis of the idea of a town, or a municipality its direct development. One who has known the sites of the Ernakulam North Station or the South Station areas here or the East or North Fort road areas at Trichur a dozen years back can easily realise the fallacy. Lands which were mostly dedicated to jackals and refuses were converted into habitable homesteads and the increase and developments of them led to the extension and expansion of dwelling houses. These in their turn called upon the neighbouring municipal area to extend its hands to embrace in the civilised neighbours. With this extension of the area came in further habitations and consequent expansion of the town or the municipality. To consider this gradual effective growth and development of a town or a municipality as something outside or independent of the tenancy agency which is responsible therefore is to count on a progeny as an accident independent of this genesis.

A further aspect equally worthy of note is the undeniable fact that verumpattam holdings within these areas have been held on contractual relations by the lessee or transferees from such and they are none of the makings of the day as the pipe system or the electric installation. These have continued with full knowledge and realisation of the mutual rights and obligations and alienations have certainly to be deemed to have had their location as a deciding element in the value thereof. We cannot for a moment think that the verumpattam right as a tangible though defeatable one was not within the factors that counted in the calculation of the site value. It is as much the duty of legislation to safeguard the interests of such purchasers of the land as those of the landlord and tenant. If the argument that the augmentation of the market price is incommensurate with the labour or capital involved in the land the argument in favour of non-eviction gets equally augmented in force, as rights and liabilities are to be deemed to be equal and co-extensive. Simply because there may be rare instances of certain plots of land getting a fair chance of an exceptionally high value as a result of particular location in a municipal area,

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we will not be justified in saddling a general liability by an exception from a helpful statute of this nature. Even if there be instances of some cases of exceptional returns from some plots of land thought to be accretions to the landlords' paramount rights, these can be easily and effectively compensated by making adequate provisions for the enhancement of rents due thereon on lines of equity and good conscience. In no view can it be expounded as a positive benefit arising out of a negative aspect to the lessee. I would respectfully submit that the Government will be pleased to accept the amendment as a natural resolution of benign legislation.

Mr. A. V. Moothedan *(Chalakkudi):* I am sorry I have to oppose this amendment. I wanted to support the amendment. But the question whether the areas included within the municipal towns will be excluded from the operation of the Act. Paddy fields are already excluded in the Select Committee's Report. I think it is not just to make such a demand. The sites in Shanmukham road was sold at Rs. 1,000 per cent, and in the Bannerjee road at Rs. 500 per cent.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* What about the other roads?

Mr. A. V. Moothedan *(Chalakkudi):* The land has got special value out of all proportions to the income of the land. Suppose I have got 5 cents of land in the Bannerjee Road to build a house. I simply give an illustration. And I have to invest about Rs. 1,000 on this. Suppose this amount is invested in the Bank. What is the return that you get. Rs. 6. Is it just? What I say is, it is not just. Another point is, in commercial towns like Mattancheri, Trichur and Ernakulam, people will be free to transfer lands. There is a plot of land one acre 2 cents. If you give fixity to each of these it will be like a pappadom. You cannot sell those lands, because there will be so many owners. And you may not be able to sell the property. I have got personal experience of a Hindu Nayar family in Perumanur. They are very good jenmies. They did not sell the lands. They somehow compromised the matter with the tenants to liquidate the debt. So for the transfer of property in Mattancheri, Ernakulam and Trichur, there will be very great difficulties if this provision is introduced. I would say also that it is not just considering the return what he gets. You can allow the tenant Rs. 6 to be paid as pattam according to the market value of the land, because this high price was fetched by the land not on account of the tenants' efforts but due to conditions beyond their control. In the case of agricultural lands and paddy fields it is not true; it is due to the tenants' efforts that the lands have improved. Here irrespective of the tenants' efforts, due to commercial and other activities, the land value has gone up. Therefore it is unjust to demand that in such cases you must give fixity of tenure. I would request the House to consider this very deeply.

Mr. P. P. Devassy *(Trichur-South):* I have to oppose this amendment. The very principle on which this legislation is sought to be enacted is to give an encouragement to the tenants to improve the properties in their possession. The idea of this legislation and the fundamental principle of this legislation is to improve all the properties in the possession of the tenants. In the case of garden lands inside towns, as the Hon'ble Member for Chalakkudi pointed out, the tenants may not always be in a position to effect that amount of improvement which the land deserves. It may happen that several parts in a big improved town may be in the possession of tenants who are not in a position to spend anything upon the property in their possession. If fixity of tenure is sought to be granted to such tenants, the properties will lie permanently in the hands of people who are not in a position to improve them. They may be inclined to sell, but it will be nobody's right to insist upon their selling. That will defeat the purpose of this legislation. If those tenants who are not in a position to improve, continue to possess these properties, it will work against this fundamental principle of this legislation. Especially in big commercial towns, it is necessary that from day to day, the properties without being allowed to lie idle should be improved and should contribute to the general progress of the town. On this one principle, I oppose this amendment.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* I have to oppose the amendment. The principle of this Bill is to encourage cultivation of agricultural lands and to confer security of tenure so far as those agricultural holdings are concerned. Lands within towns are not normally speaking agricultural holdings at all and nobody will look upon these lands as agricultural lands, even at any future time. Nobody will have any idea of treating these lands as lands for agricultural purposes at any time. They are possessed for reasons foreign to agricultural purposes, that is, for industrial and commercial purposes, and for such other developments. To give to those lands permanency of tenure is therefore foreign to the principle underlying the Bill. That is the one main ground on which I oppose this amendment. Another ground is that which is found

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in the report of the Select Committee itself. The market value of these lands has no relation to the agricultural income derived therefrom. When fixity of tenure is given to a tenant, it follows that when the land value has to be apportioned between the tenant and the jenmi or when the property is transferred from one party to another through court of law the land has to be valued and the value has to be fixed. What is the consequence of introducing such legislation here? In the commercial portions of towns, at any rate, the method of valuation of land as compared with other places always gives a high value to the land owner. It is the capitalised value of the rental of that particular piece of land. I will illustrate it in this way. Suppose we have a portion of land in some of the commercial parts of the town. When it is acquired the value that is given by the Government is so many times the actual rental of that. In commercial places, even an open ground will bring you a very large amount in the shape of rent. Sometimes the annual rent which you have to pay for the occupation of a few cents of land for commercial purposes, for putting up a shed, which in other parts of the same town will be considerably less, will naturally be very high. Can there be any comparison between the two? Then, to whom will this benefit go? To the tenant; simply because he happens to be in possession of it. He never contributed anything towards that high rental.

Mr. P. Kumaran Ezhuthassan (*Vadakancheri*): What is the basis of that assumption?

Mr. A. Madhava Prabhu *(Diwan Peishkar)*: I am not speaking of conversion of wet lands to garden lands. I am speaking of lands that are capable of being planted—a land on the foreshore which is given to the tenant. It is an open ground; you give it for drying cashewnuts or copra or for pitching a tent for a cinema or circus or for such other purpose. One or two months' rent will be equivalent to the price of similar land if it were just outside the town.

Assume, on the other hand, there is a piece of paddy land there which has been converted by the tenant into garden land by reclaiming it. What is the proportion of that investment for converting the paddy land into garden land bears to the value of the garden land Rs. 100 probably he may have had to spend for converting it or Rs. 200 or even Rs. 500, into an acre of garden land fit for being planted or being used for some commercial purpose. What is the price he is going to get? Rs. 500 a cent and not Rs. 500 an acre. He might have contributed a penny, and he is going to get a very large amount. Is that the method of doing justice between landlord and tenant? It cannot be. Look at the amount that you spend for the improvement and the value of the converted land. There is absolutely no comparison between the one and the other. On these two grounds, I strongly oppose this amendment.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Mr. President, Sir, with due respect to the feelings of the Chair and also to the feeling of this House, I shall be brief in my reply and shall confine myself to the very pointed arguments contained in the opposition. The opposition came as expected from the usual place, and I am not surprised. The only thing is that there is no point which requires an answer. And therefore I do not attempt. The argument advanced by me in support of the amendment has not been attempted to be met by my Hon'ble Friend from Chalakkudi. The next point of opposition came from my Hon'ble Friend Mr. Devassy who was intimately connected with a municipality as its ex-vice-Chairman. That deserves respectful consideration and I will answer his point. The main idea underlying the present Bill is the improvement of lands which are in the possession of verumpattam tenants and that idea is sought to be achieved by giving him fixity of tenure which works an inducement for him to improve the land. That is the main idea underlying the Bill and that idea is not satisfied by the proposed amendment, is my friend's point. Another point of opposition of that Hon'ble Friend is that there may be cases of tenants in possession of areas in municipal limits who are not capable of improving such lands, thereby leaving those plots to be left unimproved. But I am constrained to submit that these are not grounds which will entitle the exclusion of such areas from the beneficial provisions of this Act. The point that I pertinently raised in moving the amendment, namely whether the assumption that the tenant has not contributed anything at all to the improvement of the land which ultimately fetches very high value, whether that assumption is correct, has been a question I put deliberately in moving the amendment and that has not been answered by the Treasury Bench or by the non-official members, who, some with difficulty, some with gladness, opposed the amendment. That point has not been answered. And an unanswered point does not call for any reply. I maintain Sir, that the fact that initially it is the tenant who has been responsible for the improvement of the land though that area happened originally to be in a municipality or happens to be included in the municipality subsequently, gives him the right to get the benefits of this Act. If it is a case of the area being within the municipal limits, even at the initial stage of the tenure the pattam that is fixed upon that, will

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certainly not be anything like the pattam that will be fixed upon a similar land situate outside the municipal area. It will be many many times more. Therefore that is a case where initially at the inception of the tenure, the appropriate rental has been fixed upon it, many times more than the rental that will generally be fixed upon similar lands outside municipal limits. And if it is an area that belong a municipality after the tenancy originated the lessor is amply compensated by being allowed to raise the rent as provided by my amendment No. 20. If the argument of the Select Committee *viz.*, that the tenant has not contributed to the enhanced value of the holding is to be accepted, the same reasoning will force any legislator to make such an exclusion with regard to kanam lands in municipal areas. In the enactment of 1113, *i.e.*, the present Tenancy Act, such a provision has not been and rightly not been made for the simple reason that the tenant before he is asked to go out of his possession, has to be fully and sufficiently compensated. The reasons which induced the legislature not to make such an exception in the case of the Tenancy Act which relates to kanam tenure must with equal force hold good in the case of verumpattam tenures also.

Now, I shall come to the opposition of the Hon'ble the Diwan Peishkar. His points are that these lands are not fetching agricultural market value, has nothing to do with the agricultural income, then the commercial portions of these municipal areas fetch a very high rental and at times of eviction, the valuation to be made of those properties have no manner of comparison with similar lands elsewhere. These are the three points upon which the Hon'ble the Revenue Member opposed the amendment. It is not in the first place right to say that garden lands in municipal areas are not agricultural gardens. If you will leave out of your mind the restricted area in the Municipality of Mattancheri, certain restricted areas in Ernakulam and similarly in Trichur—the three premier municipalities of the State—my Hon'ble Friend for Chittur-Tattamangalam and Irinjalakkuda may perhaps take objection for my not including the municipalities of Chittur-Tattamangalam and Irinjalakkuda—so some limited areas in the Municipalities of Chittur-Tattamangalam and Irinjalakkuda—except those limited areas, if you will take pains to travel through the whole area constituting these municipalities, you will come across gardens similarly situated like gardens in rural areas having none of the advantages mentioned by the Hon'ble Revenue Member. What do you say about the areas beyond the first line of road, perhaps the adjacent road also in Mattancheri? There are areas planted profusely with cocoanut palms there. The exclusion made here operates within the whole area of the municipality and not the commercial places alone. I can understand the cases within the restricted areas of these municipalities because of the commercial importance. But to say that the whole municipal area should be exempted is simply wrong. The different considerations arise in one and the same municipality with regard to the valuation of different sites there as will be conceded by gentlemen who have seen the whole extent of the municipal area. There is a difference between area and area in the municipality. Reference was made by my friend, the Member for Chalakkudi with regard to the Chittur and the Bannerjee roads and the Shanmukham road in Ernakulam Municipality. What about the other roads, I ask. What about the position of those lands? That question was deliberately not answered because an answer is not possible. So to exclude the whole municipal area from the beneficial provisions of this Act will be doing an injustice to the persons who have been initially responsible for improving it. For these reasons, to borrow the words of Mr. Moothedan, I am constrained to put the proposition for the acceptance of this House and see how the voting takes place.

Amendment put and lost.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* A Poll, Sir.

	Ayes		Noes
1.	Mrs. Joshua	1.	Mr. A B. Salem
2.	Mr. V. J. Mathai	2.	Mr. A. V. Moothedan
3.	Mr. K. R. Ramakrishnan	3.	Mr. V. K. Bhaskara Menon
4.	Mr. A. Eachara Menon	4.	Mr. Ephraim Ouseph
5.	Mr. K. Kunjurama Menon	5.	Mr. C. Ittiravi Nambooripad
6.	Mr. C. K. Nayar	6.	Mr. C. Kunjan Nambooripad
7.	Mr. C. V. Iyyu	7.	Mr. K. Ashtamoorthi Nambooripad
8.	Mr. Kumaran Ezhuthassan	8.	Mr. T. A. Ramachandra Ayyar
9.	Mr. K. Narayana Menon	9.	Mr. N. Govinda Pai
10.	Mr. K. S. Panikker	10.	Mr. P. P. Devassi

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Ayes	Noes
11. Mr. K. T. Achuthan	11. Mr. P. V. Raphael
12. Mr. K. R. Achuthan	12. Mr. V. K. Aravindaksha Menon
13. Mr. C. K. S. Moni	13. Rao Sahib I. N. Menon
	14. Mr. Parambi Lonappan
	15. Mr. A. Madhava Prabhu
	16. Rama Varmha Tampuran
	17. Mr. C. J. Mathew
	18. Mr. M. Sivarama Menon
	19. Mr. M. M. Paul
	20. Mr. T. Narayana Menon
	21. Khan Sahib Y. Mohamad Roshan Sahib Bahadur
	22. Mr. V. N. Damodaran Nambiyar

Neutrals

1. Mr. M. K. Devassi
2. Mr. T. S. Ramachandra Ayyar
3. Mr. M. Krishna Menon
4. Mr. Kunjipalu
5. Mr. K. M. Ibrahim
6. Mr. Shabdai S. Koder

Mr. A. Madhava Prabhu *(Diwan Peishkar):* I beg to move amendment No. 13 which reads as follows.—

"In sub-clause (*f*) of clause 3",—(*a*) the words "other than lands used for the cultivation of paddy" shall be deleted; and (*b*) the following shall be added at the end. "Except to lands used for the cultivation of paddy so long as such lands are not converted into garden lands or parambas."

The first portion of it is mere verbal change. The second is that so long as paddy lands remain as paddy lands there will be permanency but when they are converted into parambas, they lose the permanency.

Mr. M. Sivarama Menon *(Advocate-General):* I second the amendment.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* On the reasons advanced by the Hon'ble the Revenue Member for the deletion of the particular words in the clause, I have great pleasure to say that I oppose the amendment. One point of his argument for the deletion of the words is that the tenant in possession has not contributed towards the improvements effected. That was the argument. The proposed amendment itself of the Hon'ble Diwan Peishkar concedes that the tenant has spent labour, money upon the conversion of paddy lands into garden lands, *i.e.* part (*b*) of his amendment. It is here plain as anything. If the clause is amended according to the Diwan Peishkar's amendment, clause (f) will read, lease of lands within municipalities except lands used for cultivation of paddy so long as such lands are not converted into garden lands or parambas. It concedes in it all the necessary implications that the land which was originally paddy lands are converted into garden lands or parambas with all that follows with that conversion. So he has himself given me the argument to oppose the resolution and I do oppose it.

Mr. V. J. Mathai *(Planters):* Sir, may I point out that the word 'to' in the amendment is unnecessary.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* Yes. That can be deleted.

Mr. M. K. Devassi *(Adur):* Sir, I also rise to oppose this amendment. In addition to what Mr. Ezhuthassan said I wish to add one or two points more. There was considerable substance when Mr. P. P. Devassi said that there is a possibility of lands lying waste and this is a case of unearned increment. But with regard to this amendment there is a fundamental difference. That is, suppose it is a garden land and a building is constructed. Even when the jenmi evicts him the money spent on the building will be more or less the value of the building so that by way of value of improvements the tenant will be getting approximately the cost of the building as value of improvement. But there is no comparison between paddy lands and the lands that are converted into garden lands in a municipal area. As rightly admitted by the Diwan Peishkar the value goes sometimes many times in value. If he has spent only Rs. 100 the

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new plot may cost Rs. 1,000 which is entirely the result of the labour of the tenant and when it is about to bear fruit for the jenmi to come and coolly evict the tenant and take the Rs. 1,000 for the hundred rupees spent by him is really inequitable and hard. This amendment is a mischievous move.

Deputy President: The intention of the legislation is to retain it as paddy field.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* That is only the result of the grow more food campaign.

Mr. M. K. Devassy *(Adur):* You cannot commit a greater mischief under the camouflage of this food production drive.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* The only thing is that the matter has not been properly understood. The point is this. Our object is to give fixity of tenure to paddy lands so long as they remain paddy lands even in towns.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Is it right to say that the object of the Bill is to give permancy of occupancy to persons who cultivate lands for growing paddy only?

Mr. A. Madhava Prabhu *(Diwan Peishkar):* All lands within municipal limits as in other places have been divided into two classes, paddy lands and garden lands. With reference to lands other than paddy lands in Municipal areas what we say is that this law shall not apply. That is with reference to such lands which are at present garden lands but not paddy lands. But with reference to paddy lands we say that this law shall apply. The moment it becomes ordinary garden land it takes the characteristic of other lands within the municipal limits by which they are taken away from the scope of the Bill.

Mr. M. K. Devassi *(Adur):* The principle on which you argued for clause (f) is that in municipal towns the increase in value is practically unearned. It is on that principle that this House voted against the amendment. Here is a specific case of earned increment by the tenant's labour. You cannot blow hot and cold at the same breath.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* Really when a man spends Rs. 100 and converts it into a garden land he will not get permanency according to this. This Act will not apply. Upon eviction he will get value of improvements.

Mr. M. K. Devassi *(Adur):* That Rs. 1,000 is the result of spending Rs. 100.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* He will get Rs. 100. He will not get the benefit of the increment which he has not worked for. That is all what he is entitled to.

Mr. M. K. Devassi *(Adur):* What does the Diwan Peishkar mean by saying that he is not entitled to Rs. 1,000 which is the result of his work. You forget the background.

Deputy President: Why do you evict the tenant of the improved land?

Mr. A. Madhava Prabhu *(Diwan Peishkar):* Garden lands in Municipal areas are to be excluded from the operation of this Bill.

Deputy President: There is no difference between paddy lands and garden lands generally. But in municipalities you make a difference.

Mr. K. Narayana Menon *(Mulakunnathukavu):* With the permission of the Chair may I make a helpful suggestion. I would like to remind the learned Advocate-General that our High Court has once held that a compound in Ernakulam planted with cocoanut trees was agricultural land and was given relief under the Agriculturist's Relief Act. Will it not be helpful to include also parambas planted with cocoanut trees alone which is the main staple product of these places and modify the words paddy lands into something which is agricultural.

Mr. A. B. Salem *(Mattancheri):* The value of lands in Municipalities like Mattancheri is.....

Mr. V. J. Mathai *(Planters):* There was a ruling that after the reply of the Government member other members cannot speak. The ruling may be applied or not applied.

Mr. C. V. Iyyu *(Kunnamkulam):* Will the Government be pleased to inform whether there are landholders other than Devaswams, Synagogues and Churches in Municipalities like Mattancheri, Ernakulam and Trichur.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* There are.

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Mr. M. Sivarama Menon *(Advocate-General)* : In fact the idea was to exempt all lands in the Municipality. But as a matter of consideration, of course after discussion, it was thought that paddy lands must be given fixity of tenure.

Amendment put and carried

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)* : A poll, Sir.

Deputy President : 20 for and 20 against. I am inclined to give my casting in favour of the status quo. *Amendment lost.*

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)* : Let the poll be completed, Sir. Let us know the neutrals also.

Rama Varmha Tampuran *(Secretary to Government)* : It is not necessary.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)* : For knowing the result of the voting it may not be necessary. But to know the position taken up by the members present at the time of voting it is absolutely necessary and can be verified from the proceedings of this Council.

Deputy President : The Neutrals will please stand up in their seats.

(Nobody stood up)

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)* : Taking the sum total of those who have voted for and against it will be evidence that there are neutrals,

Mr. V. J. Mathai *(Planters)* : If the Chair makes a command all the members have to obey or get out of the Council. Therefore, I say it is a matter of respect to the Chair.

Deputy President : I may not compel members to stand up.

Mr. A. B. Salem *(Mattancheri)* : Let us have a poll. No names have been recorded.

Amendment No. 14

മിസ്റ്റർ സി. കെ. നായർ : മുനിസിപ്പാലിറ്റിക്കകത്തു കൃഷിചെയ്യുവാനുള്ള ഭൂമികൾ ഒഴികെ ബാക്കി ഒന്നിനും ഈ നിയമം ബാധകമല്ലെന്നാണു് ഈ ബില്ലു്. ഇതുവരെ സ്ഥിരാവകാശം ഉണ്ടായിരുന്നില്ലാത്ത വെറുമ്പാട്ടകുടിയാന്മാരുടെ കൂട്ടത്തിൽ അവരെപ്പോലെ ജനങ്ങൾക്കു പരിചയപ്പെടാൻ സാധിച്ചിട്ടില്ലാത്ത തറിക്കുത്തുകാരനേയും ഉൾപ്പെടുത്തിക്കൊണ്ടുള്ളതാണു് ഈ ബില്ലു്. തറിക്കുത്തുകാരനാകട്ടെ ചിറ്റൂർ താലൂക്കിന്റെ പ്രത്യേകതയുമാണു്. തറിക്കുത്തുകാരൻ മുനിസിപ്പാലിറ്റിക്കകത്തുകടന്നപ്പോൾ വെറുമ്പാട്ടക്കുടിയാനുള്ള അവകാശം അയാൾക്കു നിഷേധിക്കപ്പെടുന്നു. മുനിസിപ്പാലിറ്റി ഇല്ലാത്ത സ്ഥലങ്ങളിൽ ഈ ബില്ലുപ്രകാരം തറിക്കുത്തുകാരനു് ഇപ്പോൾ സ്ഥിരാവകാശം കിട്ടും. അതു കിട്ടി കുറെ കൊല്ലം കഴിയുമ്പോൾ അവിടെ മുനിസിപ്പാലിറ്റി വരുകയാണെങ്കിൽ ആ സ്ഥിരാവകാശം ഇല്ലാതാകുന്നു. ഇന്നു നൽകുന്ന സ്ഥിരാവകാശത്തെ നാളെ ഇല്ലാതാക്കുന്നു. അതുപോലെതന്നെ ചിറ്റൂർ മുനിസിപ്പാലിറ്റിയുടെ അതൃത്തി വിപുലപ്പെടുത്തി മറ്റു പ്രദേശങ്ങളും മുനിസിപ്പാലിറ്റിയിൽ പെടുത്തിക്കഴിഞ്ഞാൽ അവിടങ്ങളിൽ അന്നോളം സ്ഥിരാവകാശിയായിരുന്ന തറിക്കുത്തുകാരനു് സ്ഥിരാവകാശം ഇല്ലാതാകുവാനുള്ള ഒരു നിയമമാണു് ഇതു്. തറിക്കുത്തുകാരനു് പുരവെച്ചിരിക്കുവാൻ ആരോ ദയവുണ്ടായി ഒരു പറമ്പു കൊടുത്തതായിരിക്കും. അങ്ങിനെയുള്ള തറിക്കുത്തകാരനെക്കൂടിയും സ്ഥിരാവകാശത്തിൽ പെടുത്തണമെന്നാണു് ഞാൻ ഈ അമെൻറുമെൻറുകൊണ്ടു് ആവശ്യപ്പെടുന്നതു്.

മിസ്റ്റർ എ. ഈച്ചരമേനോൻ : ഇതു് ഒരു വെമ്പാട്ടക്കുടിയാൻ ബില്ലാണു്. തറിക്കുത്തുകാരനേയും വെറുമ്പാട്ടക്കുടിയാന്റെ കൂട്ടത്തിൽ പെടുത്തുകയാണു് ചെയ്തിരിക്കുന്നതു്. വെറുമ്പാട്ടക്കുടിയാന്റെ നിലയിൽ ആ കാരണം പറഞ്ഞുകൊണ്ടു് തറിക്കുത്തുകാരന്റെ സ്ഥിരാവകാശം കൂടി എടുത്തു കളയുന്നതു ശരിയല്ല. സെലക്ടു് കമ്മിറ്റി റിപ്പോർട്ടിൽ പറയുന്നതു് ഇങ്ങിനെയാണു്.

"It is considered that just as a kudiyiruppu is precious to the tenant, the denial of the necessary site for the same for the landlord's family from his own property will be very hard and this is guarantee to be done without evicting the verumpattamdar from his kudiyiruppu."

തറിക്കുത്തുകാരന്റെ കുടിയിരിപ്പു് പ്രൈഷ്യസു് ആണെന്നു പറയുന്നതു് സങ്കടമാണു്. അവക്കു വേറെ ഒരു അവകാശംകൂടിയുണ്ടു്. ഗ്രൂപ്പു് ഓഫു് വില്ലേജസ്സിലെ തറിക്കുത്തുകാരുടെ

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കാര്യം നോക്കിയാൽ അവർ ഓരേ ജാതിക്കാരും ഓരോ തൊഴിൽക്കാരുമായിരിക്കും. മൂന്നു ദിക്കുകളിൽ വീവേഴ്സ് ആണു്. അതിൽ ഒരുദിക്കിലുള്ള വീവറെ അവിടെ നിന്നു വേറെ ദിക്കിൽ പോയി ഇരിക്കുവാൻ പറഞ്ഞാൽ വളരെ കഷ്ടമാണു്. വീവേഴ്സ് തമ്മിൽ യോജിച്ചിരിക്കുകയാണു് നല്ലതു്. അതുകൊണ്ടു് ഇങ്ങനെയുള്ള തറിക്കുത്തുകാരനെ നിലനിർത്തേണ്ട കടമ ഈ കൌൺസിലിനുണ്ടു്. തറിക്കുത്തുകാരനു് ഇപ്പോഴും ഫ ഠ ശ്രപായാണു്. ഇനി കുറെ കൂടി നീണ്ടുപോയാലും ഈ ഫ ഠ ശ്രപായാണു്. അതുകൊണ്ടു് മനസിലാപ്പൽ ടെവൺ ആണെന്നുവെച്ചു് തറിക്കുത്തുകാരെ കൊല്ലാതിരിക്കുവാൻ ഞാനപേക്ഷിക്കുന്നു.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Sir, the amendment to clause (*f*) which has been the subject-matter of various amendments with different facts, one culminating in the picture of neutrals being recorded, neutrals being incapable of being recorded.....

Mr. A. V. Moothedan *(Chalakkudi)*: Sir, it is a reflection on the Chair. It must be withdrawn.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Certainly not. I will be happy to withdraw any unparliamentary language which I might have used the more so in the case of the ruling of the Chair. But what I made is a statement of facts.

Mr. A. V. Moothedan *(Chalakkudi)*: The member was stating that in spite of the demand the Chair was not noting the names of the neutrals.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: I was saying, Sir, that clause (*f*) has become a very famous clause. It has been the subject matter of various amendments meeting with different fates and I was referring to the last incident that took place.

Supposing the Hon'ble Member's amendment is accepted the amended clause will be reading thus.—

" Leases of land other than lands used for the cultivation of paddy or lands held by a Tharikuthukaran within the Municipalities constituted under section 4 of the Cochin Municipal Act, XVIII of 1113." That is, the Tharikuthukarans of the Chittur Taluk who are included in the definition of Verumpattamdar as per clause (d) of sub-section (2) are also persons who have to undergo the miserable fate of eviction. That is how the amendment works out. The question is whether the Tharikuthukaran who has been given the benefit of the very beneficial provisions of this Act should be deprived of that through this exclusion. That is the question. I believe equity requires that the maximum benefit derivable from this Act must be given to the maximum number of persons. That position will not be disputed. Therefore to drag into the category of persons who are not to enjoy the benefits of this enactment will be something which may not appeal to the Hon'ble House. So my position is to request the Hon'ble Mover of this amendment not to drag the Tharikuthukarans—what they do there I don't know, still they are verumpattamdars—into the category of persons who will not enjoy the benefits of this legislation.

മിസ്റ്റർ വി. ജെ. മത്തായി: ഇതിനു് വലിയൊരു പ്രസംഗത്തിന്റെ ആവശ്യമുണ്ടെന്നു തോന്നുന്നില്ല. തറിക്കുത്തുകാരൻ എന്നു പറഞ്ഞാൽ എന്താണെന്നു മനസ്സിലാക്കാതെ പറയുകയാണു്. ആ കമ്മിറ്റിയിൽ ഒരു മെമ്പറെന്ന നിലയിലും നെമ്മാറയിൽ താമസക്കാരനെന്ന നിലയിലും ആണു് എനിക്കു് ഇതിനെപ്പറ്റി ഒരു സംഗതി പറയേണ്ടി വന്നിട്ടുള്ളതു്. തറി എന്നു പറഞ്ഞാൽ വേലിപ്പത്തൽ എന്നാണു് അർത്ഥം. ഒരു ഉടമസ്ഥന്റെ അടുക്കൽ താമസിക്കുവാൻ സ്ഥലം ചോദിച്ചാൽ പുരവെച്ചു താമസിക്കാൻ കുറെ സ്ഥലം കൊടുക്കും. വാണിയമ്പാറ മുതലായ സ്ഥലങ്ങളിൽ ഇതു് ഒരു പതിവാണു്. ഒരു തറി കെത്തിക്കൊടുത്തുവെന്നാണു് തറിക്കുത്തു് എന്ന വാക്കിന്റെ അർത്ഥം. ചില ദിക്കുകളിൽ ഇ സെൻറ് സ്ഥലംകൊടുക്കും. വടക്കാഞ്ചേരി മുതലായ സ്ഥലങ്ങളിൽ ഫ ഠ സെൻറ് ഒരു പുരവെക്കുവാൻ കൊടുക്കും. അങ്ങിനെ തറി കെത്തി താമസിക്കുന്നവനാണു് തറിക്കുത്തുകാരൻ. പുരവെച്ചു് താമസിക്കുമ്പോൾ ഒരു പുളിയോ രണ്ടു മാവോ രണ്ടു വാഴയോ കുറെ മുളകോ അയാൾ വെച്ചു പിടിപ്പിക്കും. മിസ്റ്റർ നായരുടെ അമെൻറ്മെൻറിനു വളരെ ശക്തിയുണ്ടു്. അതിനു് യാതൊരു പ്രസംഗവും ആവശ്യമില്ല. കൂടുതൽ പ്രസംഗിച്ചാൽ അതു് അധികപ്രസംഗമാകും.

മിസ്റ്റർ സി. കെ. നായർ: അമെൻറുമെൻറിൽ ഒരു തെറ്റു വന്നിട്ടുണ്ടു്, ഞാൻ മലയാളത്തിലാണു് അമെൻറുമെൻറ് അയച്ചിരുന്നതു്. അതു് ഇപ്രകാരമാണു്. "സ-ം

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വകുപ്പിലേ (എഫ്) ഖണ്ഡികയിൽ 'ഉപയോഗിക്കപ്പെടുന്ന' 'പാട്ടത്തിനു' എന്നീപദങ്ങൾക്കിടയിലുള്ള 'ഭൂമികളല്ലാതെ' എന്നതിനെ 'ഭൂമികളോ തറിക്കുത്തവകാശത്തിന്മേൽ കൈവശം വെക്കപ്പെട്ടിട്ടുള്ള സ്ഥലങ്ങളോ അല്ലാതെ' എന്നാക്കണമെന്നാണു് എന്റെ ഭേദഗതി.

Mr. C. V. Iyyu *(Kunnamkulam):* The speech of Mr. Nayar was intended to give fixity of tenure to Tharikuthukarans in Municipal areas of Chittur.

Mr. V. J. Mathai *(Planters):* Mr. Nayar is right. The translation is wrong. All lands held by a Tharikuthukaran for residential purposes.

ചിറ്റൂർ താലൂക്കിലുള്ള എന്നാക്കിയാൽ മതി. ഇപ്പോഴത്തെ ബില്ലുപ്രകാരം അവിടെയുള്ള കൃഷിക്കുപയോഗിക്കുന്ന നിലങ്ങൾക്കല്ലാതെ മറ്റൊന്നിനും സ്ഥിരാവകാശം ബാധകമല്ല. ഞാൻ പറയുന്നതു് മുനിസിപ്പാലിറ്റിക്കകത്തുള്ള തറിക്കുത്തുകാരനും സ്ഥിരാവകാശം വേണമെന്നാണു്.

മിസ്റ്റർ സി. വി. ഇയ്യു: സ്ഥിരാവകാശം കൊടുക്കുന്നതിൽ തറിക്കുത്തുകാരന്റെ ഭൂമിഒഴിവാക്കരുതെന്നാണു് മിസ്റ്റർ നായരുടെ വാദം.

Mr. T. P. Poulose *(Kanayannur):* There is no mistake in the translation.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* I oppose the motion. The reason is this. Tharikuthukaran, of course, before this Act gave him the status of a verumpattamdar was not considered as a verumpattam tenant. This Act for the first time gave him that status. The verumpattamdar himself does not get fixity of tenure with reference to lands within the municipalities. Then there is no reason why a person who is given that status by this bill should be given a higher status. He is there only for the purpose of his residence. By virtue of his being there, he may have planted some trees. He is not there as an agriculturist.

Therefore, I submit that, when the verumpattamdar who was even before considered as a verumpattamdar is not given the benefit of the Bill a man who has been taken into the field and considered a verumpattamdar for the purpose of this Act should not on any account be given a greater benefit.

മിസ്റ്റർ സി. കെ. നായർ: എവിടെയായാലും എന്തായാലും വെറുമ്പാട്ടക്കാരനുള്ള പ്രധാന വിഷമം ഇതാണു്. ഉൾനാടുകളും പട്ടണങ്ങളായി മാറിക്കൊണ്ടുവരുന്ന ഇക്കാലത്തു് എന്ന എവിടം മുനിസിപ്പാലിറ്റിയായി മാറിക്കൂടാ. ഈ ബില്ലുപ്രകാരം തറിക്കുത്തുകാരനു് മുനിസിപ്പാലിറ്റിക്കുള്ളിൽ സ്ഥിരാവകാശം കിട്ടുന്നില്ല. എന്തുവെച്ചാൽ ചിറ്റൂർ താലൂക്കിലെ തറിക്കുത്തുകാരന്റെ സ്ഥിരാവകാശം അസ്ഥിരമാണെന്നു വരുന്നു. ചിറ്റൂർ താലൂക്കിലുള്ള തറിക്കുത്തുകാരെ അവകാശമില്ലാത്തവരാക്കിയാൽ വേറെ ചില സ്ഥലങ്ങളിൽ ആളുകൾ തലയിൽ കെട്ടുംകെട്ടിവെച്ചു പോകുന്ന മാതിരി പോകേണ്ടിവരും. അതു് കൂടാതെ കഴിച്ചാൽ കൊള്ളാമെന്നാണു് ഞാൻ പറയുന്നതു്.

The following amendment was then put to vote and carried.—

In sub-clause (*f*) between the words "paddy" and "within" insert the words "or lands held by a Tharikuthukaran for residential purposes".

Mr. M. Sivarama Menon *(Advocate-General):* A poll Sir.

Ayes

(1) Mrs. K. Joshua
(2) Mr. V. J. Mathai
(3) Mr. A. V. Moothedan
(4) Mr. A. Eachara Menon
(5) Mr. Ephraim Ouseph
(6) Mr. M. K. Devassy
(7) Mr. K. Kunhirama Menon
(8) Mr. T. S. Ramachandra Ayyar
(9) Mr. K. R. Ramakrishnan
(10) Mr. C. K. Nayar
(11) Mr. C. V. Iyyu
(12) Mr. M. Krishna Menon
(13) Mr. T. P. Poulose
(14) Mr. T. A. Ramachandra Ayyar
(15) Mr. K. M. Ibrahim
(16) Mr. K. S. Panicker
(17) Mr. A. T. Kunjippalu
(18) Mr. K. Narayana Menon
(19) Mr. K. R. Achyutan
(20) Mr. K. T. Achyutan
(21) Mr. B. M. Peter
(22) Mr. N. V. Subbarayan Chetty
(23) Mr. V. K. Kutty
(24) Mr. P. K. Krishnan
(25) Mr. P. Kumaran Ezhuthassan

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Noes

(1) Mr. P. V. Raphael
(2) Mr. V. K. Aravindaksha Menon
(3) Rao Sahib I. N. Menon
(4) Mr. P. V. Lonappan
(5) Mr. A Madhava Prabhu
(6) Rama Varmha Tampuran
(7) Mr. C. J. Mathew
(8) Mr. M. Sivarama Menon
(9) Mr. M. M. Paul
(10) Mr. T. Narayana Menon
(11) Khan Sahib Y. Muhammad Roshan Sahib Bahadur
(12) Mr. A. B. Salem
(13) Mr. V. N. Damodaran Nambiar
(14) Mr. V. K. Bhaskara Menon
(15) Mr. K. Ashtamoorthi Nambudiripad
(16) Mr. N. Govinda Pai

Neutrals

(1) Mr. P. P. Devassy
(2) Mr. C. Kunjan Nambudiripad
(3) Mr. C. N. Ittiravi Nambudiripad

Deputy President: 25 for, 16 against and 3 neutral.

Amendment put and carried

Clause 3 as amended put and carried

Amendment No. 15

മിസ്റ്റർ സി. കെ. നായർ: ഞങ്ങളുടെ നാട്ടിൽ ഒരു പ്രത്യേക രീതിയിലുള്ള വെറുമ്പാട്ടക്കാരുണ്ട്. തോട്ടം പാട്ടത്തിനെടുക്കുന്നവരാണവർ. തോട്ടമെന്നു പറഞ്ഞാൽ കവുങ്ങും തെങ്ങും മറ്റും ധാരാളമുള്ളവയാണു്. അതു് ചിലർക്കു പാട്ടത്തിനു കൊടുക്കാറുണ്ടു്. എന്നാൽ സാധാരണ വെറുമ്പാട്ടക്കുടിയാനവന്മാർക്കു കൊടുക്കുന്ന മാതിരിയിലല്ല പാട്ടത്തിനു് കൊടുക്കുന്നതു്. ചുറ്റും വേലികെട്ടുക, കിളക്കുക, നനക്കുക ഇതൊക്കെ കഴിച്ചു് ഇതു് ഉറപ്പിക്കയും ഇതു് അടക്കയും തരണമെന്നാണു് അതിനുള്ള നിബന്ധന. സ്ഥലം കൈവശംവെച്ചു ഈ വക ജോലികൾ ചെയ്തു അനുഭവമെടുത്തു കുണ്ടിൽ ഇന്നതു പാട്ടം കൊടുക്കണമെന്നു നിശ്ചയിച്ചിട്ടാണു് അവർ തോട്ടങ്ങളിൽ പ്രവൃത്തിയെടുക്കുന്നതു്. ഈ കൊല്ലത്തിൽ അടക്ക കൂടുതലുണ്ടെങ്കിൽ പാട്ടം കൂടുതൽ കൊടുക്കണം. ചിലപ്പോൾ ആ സാധനങ്ങളുടെ വിലയനുസരിച്ചു പാട്ടത്തിൽ കൂടുതൽ കുറവുണ്ടാകാറുണ്ടു്. അവനും ഒരു തരം പാട്ടക്കാരനാണു്. ഭൂമിയും അവന്റെ കൈവശമാണു്. അവനും വെറുമ്പാട്ടക്കുടിയാന്റെ നിലയിൽ ഈ ബില്ലുകൊണ്ടു ഗണിക്കപ്പെടുമെങ്കിൽ മാത്രമെ ഇതു് എനിക്കു് അവതരിപ്പിക്കേണ്ടതുള്ളൂ. അങ്ങിനെ പെടുത്തീട്ടില്ലെങ്കിൽ അതു് പറഞ്ഞാൽ ഞാൻ ഇപ്പോൾതന്നെ ഇരിക്കാം.

മിസ്റ്റർ എം. ശിവരാമമേനോൻ: ഭൂമി കൈവശംവെച്ചു അതിലെ അനുഭവമെടുക്കുവാനും, അതിൽ ചമയങ്ങളുണ്ടാക്കുവാനും അവകാശമുണ്ടെങ്കിൽ അവൻ പാട്ടക്കാരനായി. അല്ലാതെ വെറുതെ അടക്കയൊ മറ്റൊ പറിച്ചെടുക്കുവാനും മാത്രമുള്ള അവകാശമെ ഉള്ളുവെങ്കിൽ അവൻ പാട്ടക്കാരനാകയില്ല. ഭൂമിയുടെ കൈവശാവകാശം ജന്മിയിലിരിക്കയാണെങ്കിൽ അനുഭവമെടുക്കുന്നതുകൊണ്ടു് മാത്രം പാട്ടക്കാരനാകയില്ല. അവൻ വെറും ഒരു തോട്ടക്കാരൻ, അല്ലെങ്കിൽ ആ ജന്മിയുടെ വേലക്കാരൻ മാത്രമെ ആകയുള്ളൂ. പാട്ടക്കാരനെന്നു പറഞ്ഞാൽ ഭൂമി സ്വന്തം നിലയിൽ കൈവശംവെച്ചു ചമയങ്ങളുണ്ടാക്കുന്നവനായിരിക്കും. അതിൽ മറ്റൊരുത്തനു് പ്രവേശിക്കുവാനൊ, അവകാശപ്പെടുവാനൊ സാദ്ധ്യമല്ല. അനുഭവങ്ങൾ ഇഷ്ടംപോലെ എടുക്കാൻ കഴിയുന്നവനാണു് പാട്ടക്കാരൻ.

Amendment, by leave, withdrawn

Amendment No. 16

Mr. C. V. Iyyu *(Kunnamkulam):* This amendment takes in two sets of amendments.

Mr. Sivarama Menon *(Advocate-General):* Sir, on a point of order, this amendment cannot be moved. The amendment reads thus—"No agreement or contract entered into between the lessor and a Verumpattamdar subsequent to the 1st day of Kumbham 1114 and before the commencement of this Act which has the effect of so changing the nature of the Tenancy as to deprive the latter of the fixity of tenure provided under this Act shall be binding

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on the verumpattamdar". This identical question was raised this morning and decided by the House.

Mr. C. V. Iyyu *(Kunnamkulam):* That was only about Varam and Pankupattam tenants.

Mr. M. Sivarama Menon *(Advocate-General):* This is only the same question in another form.

Mr. C. V. Iyyu *(Kunnamkulam):* There are other sorts of tenures which have been created by certain jenmies. Certain verumpattam holdings have, somehow or other, been converted into other kinds of tenures such as 'Kooly Charth, Sookshippukaran' etc. There are such documents existing in the State. Certain big Jenmies who have been sufficiently intelligent and clever to escape the provisions of this Bill have done like that. It is for that I have tabled this amendment.

Mr. M. Sivarama Menon *(Advocate-General):* Sir I am referring to Standing Order 24 (5) to justify the position I have taken. That provision is to the following effect.—"An amendment on a question must not be inconsistent with any previous decision on the same question given at the same stage of any Bill or motion." Now let us see what all agreements, according to the amendment are said to be imperative. "No agreement or contract entered into between the lessor and a Verumpattamdar subsequent to the 1st day of Kumbham 1114 and before the commencement of this Act which has the effect of so changing the nature of the tenancy as to deprive the latter of the fixity of tenure provided under this Act shall be binding on the Verumpattamdar". Therefore the position is if there has been an agreement between the Verumpattamdar and the Jenmi on and after the 1st day of Kumbham 1114 and prior to the date on which this Act will come into force, all such agreements shall be invalidated. That is to say if there was a conversion of a Verumpattam holding into Varam or Pankupattam or any other kind of licence, all such arrangements should be made invalid and the former position should be restored. That was the substantial issue on which the vote was taken this morning. The House considered whether retrospective operation should be given to this Bill from 1st Kumbham 1114 and voted upon it. The vote was on this issue and not on the ground that the amendment took in only varam or pankupattam. The question involved in this amendment is the same and hence out of order.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* May I know the provision on which the point of order is raised.

Mr. M. Sivarama Menon *(Advocate-General):* Standing Order No. 24 (5).

Mr. T. P. Poulose *(Kanayannur):* Suppose the House really wanted to move an amendment which will affect not only Varam and Pankupattam tenants but also all sorts of agreements and contracts as contemplated by Mr. Iyyu, how is it to be done.

Mr. M. Sivarama Menon *(Advocate-General):* What other agreements or contracts can be contemplated.

Mr. T. P. Poulose *(Kanayannur):* Suppose the House really wanted to do so. The only attitude will be to vote against it and pass the amendment with a wider scope.

Mr. M. Sivarama Menon *(Advocate-General):* To sum up my position is this. Amendments Nos. 1 and 2 moved yesterday raised the question of giving restropective effect to the Bill so far as tenants evicted through a court of law are concerned from 1st Kumbham 1114. Amendment No. 7 moved this morning sought to provide that Varam and Pankupattam arrangements created after 1st Kumbham 1114 should be deemed to be Verumpattam tenures under this Bill by giving retrospective operation to the Bill. Hence I am of the view that this amendment in so far as it attempts to give retrospective operation to the Bill is quite inconsistent with the decision already taken in this House yesterday and today.

Mr. T. P. Poulose *(Kanayannur):* Suppose this House wanted to pass Mr. Iyyu's amendment. Then the House with that object in view could have opposed Mr. Ezhuthassan's amendment. If not there would have been two amendments which would be redundant. The amendment with a restricted scope must be thrown out. Otherwise there will be two amendments of the same nature.

Deputy President: Mr. Ezhuthassan's amendment was voted against not because it was not comprehensive enough. Even in its restricted scope it was voted against.

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Mr. V. J. Mathai *(Planters)*: Transactions which have already been entered into before this Bill and after the 1st of Kumbham 1114 should not be restored to their original position. That is the principle voted upon.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: There seems to be a confusion of ideas.

Mr. V. J. Mathai *(Planters)*: There is no confusion.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: I am very glad to hear that endorsement from my friend.

We had an amendment yesterday, amendment No. 2, that is to give retrospective effect to the whole Bill back to a certain date, *viz.*, the first day of Kumbham 1114. Then there was amendment No. 7 which was the subject-matter of discussion this morning. That was to remove the cases of varapattam and pankupattam tenures from the tenures that the definition laid are not verumpattamdars. That was in a sense a wider amendment than the one that is now proposed. Wider in the sense that amendment No. 7 took in cases of varapattam and pankupattam tenures entered into subsequent to a particular date and which may hereafter also be entered into, *i. e.*, even after the Act becomes law. The scope of the present amendment is that agreements between 1st Kumbham 1114 and the day on which this will become law shall be excluded. The scope of this amendment is more restricted. To say that an identical amendment has been voted one way or other and therefore this amendment cannot be moved because of that is the result of a confusion of ideas or an attempt to torpedo the effect of the various salutary amendments that were tabled here but unfortunately lost but still hopeful of being restored. To say that these are identical amendments and therefore could not be the subject-matter of discussion and voting is wrong. Therefore, I submit there is no point in the point of order raised.

Deputy President: Though I am at present inclined in favour of the view taken by the Advocate-General, I do not give a ruling today. I have to consider the question more carefully and therefore postpone the ruling.

Mr. C. V. Iyyu *(Kunnamkulam)*: So the amendment can be taken up tomorrow.

Deputy President: The ruling will be given tomorrow by myself or by the Hon'ble President.

Mr. V. J. Mathai *(Planters)*: So, the next clause can be taken up.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: We can rightly pass on to clause 5.

Mr. V. J. Mathai *(Planters)*: Standing order 40 says—"Amendments shall ordinarily be considered in the order of the clauses to which they respectively relate." and 41 says—"Notwithstanding anything in the foregoing orders, it shall be in the discretion of the President when a motion that a Bill be taken into consideration has been carried, to submit the Bill or any part of the Bill, to the Council clause by clause. When this procedure is adopted, the President shall call each clause separately, and, when the amendments relating to it have been dealt with, shall put the question; "That this clause stand part of the Bill." The word used in S. O. 40 is 'ordinarily'.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: "Clause by clause" cannot mean one clause after another.

Deputy President: We shall now pass on to clause 5.

Mr. A. Madhava Prabhu *(Diwan Peishkar)*: I shall first deal with sub-clause (1) of clause 5. Sub-clause (1) reads—"Subject to sub-section (2) and to any remission to which a Verumpattamdar may be entitled under the provisions of this Act the Pattam payable by him in respect of his holding under the contract of tenancy shall not be enhanced or reduced except by mutual agreement". That is to say, the rent current on the date of the tenancy shall always remain the same and shall not be changed. Does this amendment to any extent by any wording of it change that? It does not. It only aims at correctly working out the amount which will have to be paid by the tenant to the landlord.

Clause (2) reads—"Where cocoanut is the major produce of a garden land and the Pattam fixed therefor under the contract of tenancy is payable in money, the Verumpattamdar shall, in respect of the Pattam accruing due after the commencement of this Act, be liable to pay it in kind computed on the basis of the market value of cocoanuts prevailing on the date of the contract of tenancy or the money value thereof computed at the market rate prevailing on the date on which such Pattam accrues due".

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Clause (3) reads.—"The market rate for cocoanuts for the purpose of sub-section (2) shall be the market rate published from time to time under the provisions of the Cochin Tenancy Acts, II of 1090, and XV of 1113 and for any period for which no such rates are published, such rates as Government may by notification in the Cochin Government Gazette specify in this behalf".

Reference was made in his opening speech by the Advocate-General to this clause. The principle of this clause is this and the way to work it out is as follows. In the clause as it stood before, there is no such provision. In the case of parambas when the value of the produce goes up the landlord loses, when the value goes down the tenant loses and therefore to fix always the money value as pattam in the case of garden lands will work hardship either on the one or on the other as the price goes up or down. This amendment suggests a device by which the hardship is sought to be remedied. We work out the pattam in the following way. Suppose in the year 1065 a tenancy was created with reference to a garden land in which most of the trees that were assessed to pattam were cocoanut trees. Suppose Rs. 60 is the pattam that was fixed in the pattamchit. We take the market value of cocoanuts in the year 1065 and find out what should be the number of cocoanuts whose value is Rs. 60. If we find that that is 1,000 cocoanuts, the contract between the parties is supposed to be that the tenant should give to the landlord 1,000 cocoanuts, whose value in those days was Rs. 60. Now, this clause says that ever afterwards we shall take it that the contract between the parties was to give 1,000 cocoanuts; just as in the case of paddy lands whenever paddy lands are given out on pattam, the pattam is fixed in kind, (so many paras of paddy), similarly in the case of garden lands also the pattam may be taken as having been made payable in kind. To find out what that quantity in kind is we should have recourse to the price of the cocoanuts on the date on which the contract of tenancy was brought into existence. This can be found out by reference to the records available. If for any period, no rates are published, then such rates are published, as Government may by notification in the Cochin Government Gazette specify in this behalf should be taken to find out the pattam in kind. This provision is made for that purpose. Therefore, hereafter the pattam that will be payable in this particular case will be the price of 1,000 cocoanuts. If the cocoanuts go up in price, the landlord gets the benefit, if it goes down the landlord also shares in the adversity. That is the principle.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Before proceeding further, I would like to know whether there is any record to find out the market value prevailing on the inception of the tenancy.

Mr. M. Sivarama Menon *(Advocate-General)*: So far as cocoanuts are concerned, we have got records to show it.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Another point is whether the mover of this motion has any objection to leave the words "except by mutual agreement", appearing in sub-clause (1), and whether he has any objection for adding the words "cotton, arecanuts and pepper" after the word "cocoanut".

Mr. A. Madhava Prabhu *(Diwan Peishkar)*: We have no data for fixing the market rate of cotton, arecanuts and pepper. We have got records only with regard to cocoanuts.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: If there is data here for showing the prevailing market rate of cocoanuts, certain as anything there must be similar records with regard to arecanuts and pepper also.

Mr. M. Sivarama Menon *(Advocate-General)*: About cotton, there will be no record. With regard to pepper and arecanuts, I will make an enquiry. With regard to cocoanuts we have definite records.

മിസ്റ്റർ വി. ജെ. മത്തായി: ഒരു വാക്കു പറയുവാനുണ്ട്. പൊതുവെ പറയുമ്പോൾ ഈ ഭേദഗതി കടിയാനു് അനുകൂലമാണു്. ചില ഗഡുവുകളിൽ വളരെ അനുകൂലമായിരിക്കുമെന്നുള്ളതിനു സംശമയില്ല. അതിൽ ഞാൻ ഗവണ്മെണ്ടിന്റെ ഉദ്ദേശശുദ്ധിയെ ശ്ലാഘിക്കയും ചെയ്യുന്നു. തേങ്ങക്കു വില കുറയുന്ന കാലങ്ങളിൽ ഇതുകൊണ്ടു് കടിയാനു് വളരെ ഗുണമുണ്ടു്. ഇപ്പോൾ ചില നല്ല ജന്മികൾപോലും തേങ്ങയായിട്ടു വാങ്ങുന്നതായി എനിക്കറിയാം. പക്ഷെ ഞാൻ പേരു പറയുന്നില്ല. ഇതിനു് മുമ്പുണ്ടയിരുന്ന ഒന്നാം ഖണ്ഡംകൊണ്ടു് പാട്ടം കൂട്ടുകയൊ കുറക്കുകയൊ ചെയ്യുവാൻ പാടില്ലെന്നുള്ള നിബന്ധനയുണ്ടായിരുന്നു. ഇപ്പോൾ ഇരുകക്ഷികളും സമ്മതിച്ചാൽ—ഉഭയസമ്മതപ്രകാരം—പാട്ടം

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കൂട്ടുകയൊ കുറക്കുകയൊ ചെയ്യാം. കുടിയാൻ എന്നു പറയുന്ന ആൾ തിരികല്ലിന്റെ കല്ല കളുടെ മദ്ധ്യത്തിലുള്ള ആളാണു്. കുടിയാന്മാരെ നിർബ്ബന്ധിച്ചു പാട്ടം കൂട്ടുവാൻ വഴി യുണ്ടു്.

മിസ്റ്റർ കെ. എസ്സു്. പണിക്കർ: വിളംബരം ഉണ്ടായിട്ടുംകൂടി ജന്മിയെ ഭയപ്പെട്ട കു ടിയാനു് ഭൂമി ഒഴിഞ്ഞുകൊടുക്കേണ്ടിവന്നിട്ടുണ്ടല്ലൊ.

മിസ്റ്റർ വി. ജെ. മത്തായി: വല്ല കാരണവശാലും ഏതുവഴിക്കെങ്കിലും പാട്ടം കൂട്ടുകയും കുറക്കുകയും ചെയ്യുവാനുള്ള അവകാശം കൊടുക്കുന്നതു് ഈ നിയമസഭ ഒരിക്കലും അനുവദി ക്കാൻ പാടില്ലെന്നാണു് ഞാൻ പറയുന്നതു്. ഞാൻ ദിവാൻ പേഷ്കാരവർകളോടും, അ ഡ്വക്കേറ്റ് ജനറൽ അവർകളോടും അപേക്ഷിക്കുന്നതു് ഈ ഭാഗം Except by mutual agreement as follows—എന്ന ഭേദഗതിയിൽ നിന്നൊടുത്തുകളഞ്ഞാൽ മതിയായിരുന്നു എ ന്നാണു്. അല്ലാതെ ഇങ്ങിനെതന്നെ നിറുത്തിയിരിക്കുന്നതുകൊണ്ടു് ഇതു് തീച്ചയായും ഞ ങ്ങൾ എതിർക്കുകയാണു് ചെയ്യുന്നതു്. ഈ ഭേദഗതിപ്രകാരം ക, ഖ, ന ഇങ്ങിനെ മൂന്നു ഉപഖണ്ഡങ്ങൾ വരുന്നുണ്ടു്.

മിസ്റ്റർ എം. ശിവരാമമേനോൻ: Except by mutual agreement എന്നുള്ളതു് ആദ്യം ഉണ്ടാ യിരുന്നില്ല. അതു് ഇപ്പോൾ ചേർക്കുവാനുള്ള കാരണം പറയാം. ൫ ൦ തെങ്ങു് മരാമത്തു പാട്ടത്തിനു കൊടുത്തിട്ടുണ്ടെന്നു വിചാരിക്കുക. പുഴക്കേടുകൊണ്ടു് തെങ്ങിനു ദോഷംവരുന്ന അവസരത്തിൽ യാതൊരു കാരണവശാലും പാട്ടം കൂട്ടുകയൊ കുറക്കുകയൊ ചെയ്യുവാൻ പാ ടില്ലെന്നു വന്നാൽ ജന്മിക്കു വല്ലതും ദയവായി പാട്ടത്തിൽ ഇളവുചെയ്തു കൊടുക്കുവാൻ സാ ധിക്കാതെവരും. അപ്പോൾ പാട്ടം കുറച്ചു കൊടുക്കുവാൻ അതു് ഒരു നിയമതടസ്ഥമായി രിക്കും. ലോകത്തിൽ മനുഷ്യരെല്ലാം യോജിച്ചു ഒരേ മനസ്സോടുകൂടി ചെയ്യേണ്ട സംഗതി കൾ പാടില്ല എന്നു പറഞ്ഞാൽ ശരിയല്ല. രണ്ടാളുകൾക്കുടി യോജിച്ചു ചെയ്യുന്ന കാര്യ ത്തിൽ ഒരിക്കലും വിരോധം പറയുവാൻ പാടില്ല. ജന്മി വിളിക്കുമ്പോൾ കുടിയാൻ ക ല്ലിന്റെ ഇടയിൽപോയിരിക്കും, ജന്മി ഇഷ്ടംപോലെ അയാളെക്കൊണ്ടു് കടലാസ്സിൽ ഒപ്പി ടുവിക്കും എന്നു പറഞ്ഞു. കൊച്ചീരാജ്യത്തു അങ്ങിനെയുള്ള ഒരു നില കുടിയാനു് ഇല്ല. കുടിയാന്മാരുടേയും ജന്മികളുടേയും ഇൻറെറസ്റ്റു നോക്കി ചെയ്യുവാൻ കഴിവുള്ള ജനപ്രതി നിധികൾ ഈ നിയമസഭയിലിരിക്കുന്നിടത്തോളം കാലം ഒരു കുടിയാൻ പേടിച്ചോടി എന്നു വരികയില്ല. ജന്മി കുടിയാനെ നിർബ്ബന്ധമായി പിടിച്ചു ഒപ്പിടുവിച്ചാൽ കൺ ട്രാക്ടു് അതുപ്രകാരം കേസ്സു് കൊടുക്കാം. കൊച്ചീരാജ്യത്തുള്ള സകലരും കുടിയാന്മാരു ടേയും ജന്മികളുടേയും ആളുകളാണെങ്കിലും കുടിയാന്മാരുടെ കാര്യം നോക്കുവാൻ ആരുമില്ല. മനസ്സിണങ്ങി ഒരു കരാറുണ്ടാക്കുവാൻ ബുദ്ധിമുട്ടുണ്ടാകരുതെന്നു വിചാരിച്ചാണു് മൂഛൽ എ ഗ്രിമെൻറ എന്ന വാക്കു ചേർത്തിരിക്കുന്നതു്. ഉദാഹരണം പറയുകയാണെങ്കിൽ കോൾ നിലങ്ങളിലെ വെള്ളം വറ്റിക്കുവാൻ എഞ്ചിൻ ഉപയോഗിക്കണം. അതിനു അഡ്വാൻസ് കൊടുക്കേണ്ടതുണ്ടു്. അതിനു കുടിയാന്റെ കയ്യിൽ പണമുണ്ടായിരിക്കയില്ല. ജന്മിവേണം അതിനുള്ള ചിലവു ചെയ്യുവാൻ.

മിസ്റ്റർ കെ. എസ്സു്. പണിക്കർ: വെറുമ്പാട്ടത്തിനു കൊടുത്തിട്ടുള്ള ഒരു കോൾകൃഷിക്കു ഏതെങ്കിലും ഒരു ജന്മി മുൻകൂട്ടി കടം കൊടുത്തിട്ടുണ്ടോ ?

മിസ്റ്റർ പി. കുമാരനെഴുത്തശ്ശൻ: ഇത്രയും ധർമ്മബുദ്ധിയുള്ള ജന്മിയുടെ കീഴിൽ ഇരിക്ക വാനുള്ള ഭാഗ്യം കുടിയാനുണ്ടായിട്ടില്ല.

മിസ്റ്റർ എം. ശിവരാമമേനോൻ: കുടിയാനും ജന്മിയുംകൂടി യോജിച്ചു ചെയ്യില്ലെങ്കിൽ അതു് കുടിയാനും ജന്മിക്കും ദോഷമാണു്. അതുകൊണ്ടു് ഇങ്ങിനെയുള്ള കാര്യത്തിൽ യാ തൊരു കരാറും പാടില്ലെന്നു പറഞ്ഞു പ്രവേശിക്കുന്നതു ശരിയല്ല. അതാണു് മൂഛൽ എ ഗ്രിമെണ്ടു് എന്ന വാക്കു വെക്കുവാൻ കാരണം. കോടതിയിൽപോയി കേസുകൊടുത്തു അ നവധി പണം ചിലവുചെയ്തു ഒടുവിൽ തിരുമനസ്സിനായി ഹൈക്കോടതിയിൽ വരു മ്പോൾ ഞങ്ങൾ രാജിയായി തീർന്നിരിക്കുന്നു എന്നു പറഞ്ഞു ധാരാളം ഹർജികൾ കിട്ടാറുണ്ടു്. അങ്ങിനെയുള്ള യോജിപ്പുകൾ ഒരിക്കലും നിയമപ്രകാരം ഇല്ലാതാക്കുവാൻ പാടില്ല. കുടി യാനവനു് ഒരിക്കലും തനിച്ചു അവനവന്റെ കാര്യം നോക്കുവാൻ സാദ്ധ്യമല്ല. മൂഛൽ

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എഗ്രിമെൻറിനെപ്പറ്റിയുള്ള വാദപ്രതിവാദം വേറെ, ബാക്കിയുള്ള വാദപ്രതിവാദങ്ങളുടെ കാര്യം വേറെ എന്നുള്ള നിലയാണെങ്കിൽ ഞങ്ങൾ തീച്ചയായും ഇതിനെ എതിർക്കും എന്നു മിസ്റ്റർ മത്തായി പറയുകയുണ്ടായി. അങ്ങിനെ ആക്കും ഗുണമില്ലാത്ത നിലയിൽ ചെയ്യുവാൻ പാടില്ലെന്നുകൂടി എനിക്കു അവസാനമായി പറയുവാനുണ്ടു്.

Mr. M. K. Devassy *(Adur):* I rise to move a point of order with regard to this amendment.

Deputy President: You can raise it tomorrow.

The President wants to know whether the House will be willing to devote the non-official days also for the consideration of this Bill. We will continue tomorrow.

The House rose for the day at 4-55 p.m.

N. S. RADHAKRISHNA SARMA

Secretary to the Council

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